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P R O C E E D I N G S

OF THE

Bengal

GOVERNOR AND COUNCIL

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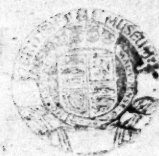
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P R O C E E D I N G S

OF THE

GOVERNOR AND COUNCIL

At *FORT WILLIAM, &c.*

Respecting the Administration of Justice amongst
the Natives in *Bengal*.

The Fortieth Paragraph of the Letter from the President
and Council in *Bengal*, for the Department of the
Revenues, to the Court of Directors, dated 3d *November*,
1772.

THE more regular Administration of Justice was deliberated on by
the Committee of Circuit, and a Plan was formed by them, which
afterwards met with our Approbation: We cannot give you a bet-
ter Idea of the Grounds on which this was framed, than by referring you to
a Copy of it, together with a Letter from the Committee to the Board, on
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the Occasion, both of which make Numbers in this Packet, and we earnestly recommend them to your Perusal, requesting to be assisted with such further Orders and Instructions thereon, as they may require for compleating the System, which we have thus endeavoured to establish, on the most equitable, solid and permanent footing. We hope they will be read with that Indulgence, which we are humbly of Opinion is due to a Work of this Kind, undertaken on the plain Principles of Experience and common Observation, without the Advantages which an intimate Knowledge of the Theory of Law might have afforded us; *We have endeavoured to adapt our Regulations to the Manners and Understandings of the People, and Exigencies of the Country, adhering as closely as we were able, to their ancient Usages and Institutions.* It will be still a Work of some Months we fear, before they can be thoroughly established throughout the Provinces, but we shall think our Labours amply recompensed, if they meet with your Approbation, and are productive of the good Effects we had in View.

~~Letter from the Committee of Circuit, to the Council~~
at *Fort William*, dated *Cossimbuzar*, 15th *August*,

1772.

IN the Copy of our Proceedings, which accompanied our Letter of the 28th *ultimo*, we intimated our Intention of communicating to you our Sentiments in a future Address, upon the Subject of the Magistracy of this Province, which though an Appendage of the Nizamut, we considered as not necessarily connected with the Propositions, which were then recommended to your Attention, and of too much Importance to be lightly, or only occasionally treated.



We

WE now transmit to you the result of our Deliberations on this Subject, in the enclosed Paper, entitled "A Plan for the Administration of Justice;" and if it meets with your Approbation, we wish to receive your Instructions for carrying it into immediate Execution.

FOR the Information of our Honourable Employers, it may be necessary to premise, what you will readily perceive, that in forming the inclosed Plan, we have confined ourselves with a scrupulous Exactness, to the Constitutional Terms of Judicature, already established in this Province, which are not only such as we think in themselves best calculated for expediting the Course of Justice, but such as are best adapted to the Understandings of the People. Where we shall appear to have deviated in any respect from the known Forms, our Intention has been to recur to the original Principles, and to give them that Efficacy, of which they were deprived by venal and arbitrary Innovations, by partial Immunities, granted as a Relief against the general and allowed Abuse of Authority, or by some radical Defect in the Constitution of the Courts in being; and these Changes we have adopted with the less Hesitation, as they are all of such a Nature, as we are morally certain will prove both of general Satisfaction and general Ease, to the People.

THE general Principles of all despotic Governments, that every Degree of Power shall be simple and undivided, seems necessarily to have introduced itself into the Courts of Justice; this will appear from a Review of the different Officers of Justice, instituted in these Provinces, which, however unwilling we are to engross your Time with such Details, we deem necessary on this Occasion, in Proof of the above Assertions, and in Justification of the Regulations, which we have recommended.

First. THE Nazim, as Supreme Magistrate, presides personally in the Trials of Capital Offenders, and holds a Court every Sunday, called the Rôz Adawlut.

Second. THE Dewan, is the supposed Magistrate for the Decision of such Causes, as relate to real Estates, or property in Land, but seldom exercises this Authority in Person.

Third. THE Darogo, Adawlut al Aalea, is properly the Deputy of the Nazim; he is the Judge of all Matters of Property, excepting Claims of Land and Inheritance, he also takes Cognizance of Quarrels, Frays and abusive Names.

Fourth. THE Darogo Adawlut Dewanee, or Deputy of the Dewan, is the Judge of Property in Land.

Fifth. THE Phoujdar is the Officer of the Police, the Judge of all Crimes not Capital, the Proofs of these last are taken before him, and reported to the Nazim for his Judgment and Sentence upon them.

Sixth. THE Câzee is the Judge of all Claims of Inheritance or Succession; he also performs the Ceremonies of Weddings, Circumcision, and Funerals.

Seventh. THE Mohtesib has Cognizance of Drunkenness, and of the vending of spirituous Liquors and intoxicating Drugs, and the Examination of false Weights and Measures.

Eighth. THE Muftee is the Expounder of the Law. *Memorandum,* The Câzee is assisted by the Muftee and Mohtesib in his Court: After hearing

ing the Parties and Evidences, the Muftee writes the Fettwa, or the Law applicable to the Cafe in Question, and the Cázee pronounces Judgment accordingly. If either the Cázee or Mohtefib disapprove of the Fettwa, the Cause is referred to the Nazim, who summons the Ijlafs, or General Assembly, confifting of the Cázee, Muftee, Mohtefib, the Darogos of the Adawlut, the Moulavies, and all the Learned in the Law, to meet and decide upon it. Their Decifion is final.

Ninth. THE Canongos are the Registers of the Lands. They have no Authority, but Causes of Land are often referred to them for Decifion, by the Nazim, or Dewan, or Darogo of the Dewannee.

Tenth. THE Cootwall is the Peace Officer of the Night, dependent on the Phoujdarree.

FROM this List it will appear, that there are properly Three Courts for the Decifion of Civil Causes (the Canongos being only made Arbitrators by Reference from the other Courts) and one for the Police and Criminal Matters. The Authority of the Mohtefib in the latter, being too confined to be confidered as an Exception; Yet, as all defective Inftitutions foon degenerate, by Ufe, into that Form to which they are inclined, by the unequal Prevalence of their component Parts; fo thefe Courts are never known to adhere to their prefcribed Bounds, but when reftained by the Vigilance of a wifer Ruler, than commonly falls to the Lot of defpotic States; at all other Times, not only the Civil Courts encroach on each others Authority, but both Civil and Criminal often take Cognizance of the fame Subjects; or their Power gradually becomes weak and obfolete, through their own Abufes, and the Ufurpations of Influence. For many Years paff, the Darogos of the Adawlut al Aalea, and of the Dewannee, have been confidered as Judges of the fame Causes, whether of real or perfonal Property; and the Parties

Parties have made their Application as Chance, Caprice, Interest, or the superior Weight and Authority of either directed their Choice. At present, from obvious Causes, the Dewannee Adawlut is in effect the only Tribunal: The Adawlut al Aalea, or the Court of the Nazim existing only in Name.

It must however be remarked in Exception to the above Assertions, that the Phoujdarree being a single Judicature, and the Objects of it clearly defined, it is seldom known, but in Time of Anarchy, to encroach on the Civil Power, or lose much of its own Authority; this however is much the Case at present.

THE Court in which the Cázee presides, seems to be formed on wiser Maxims, and even on more enlarged Ideas of Justice, and Civil Liberty, than are common to the despotic Notions of Indian Governments.

THEY must be unanimous in their Judgment, or the Case is referred in Course to the General Assembly; but the Intention of this Reference is defeated, by the Importance which is given to it, and the insurmountable Difficulties attending the Use of it, few Cases of disputed Inheritance will happen, in which the Opinions of Three independent Judges shall be found to concur: There is therefore a Necessity, either that One shall over-rule the other Two, which destroys the Purpose of their Appointment, or that daily Appeals must be made to the Nazim, and his Warrant issued to summon all learned in the Law, from their Homes, their Studies, and necessary Occupations, to form a tumultuous Assembly, to hear and give Judgment upon them: The Consequence is, that the General Assembly is rarely held, and only on Occasions which acquire their Importance from that of the Parties, rather than from the Nicety of the Case itself: The Cázee therefore either advises with his Colleagues in his own particular Court, and gives Judgment according to his own Opinion, or more frequently decides without their Assistance or Presence.

ANOTHER

ANOTHER great and capital Defect in these Courts is the want of a Substitute or Subordinate Jurisdiction, for the Distribution of Justice in such Parts of the Province, as lie out of their Reach, which in effect confines their Operations to a circle, extending but a very small Distance beyond the Bounds of the City of Moorshedabad: This indeed is not universally the Case, but perhaps it will not be difficult to prove the Exceptions to be an Accumulation of the Grievance, since it is true that the Courts of Adawlut are open to the Complaints of all Men; yet it is only the rich, or the vagabond Part of the People who can afford to travel so far for Justice; and if the industrious Labourer is called from the farthest Part of the Province to answer their Complaints, and wait the tedious Process of the Courts, to which they are thus made amenable, the Consequences in many Cases will be more ruinous and oppressive, than an arbitrary Decision could be, if passed against them without any Law or Process whatever.

THIS Defect is not however left absolutely without a Remedy, the Zemindars, Farmers, Shicdars, and other Officers of the Revenue assuming that Power, for which no Provision is made by the Laws of the Land, but, which in whatever Manner it is exercised, is preferable to a total Anarchy: It will however be obvious, that the judicial Authority lodged in the Hands of Men, who gain their Livelihood by the Profits on the Collections of the Revenue, must unavoidably be converted to Sources of private Emolument, and in effect the greatest Oppressions of the Inhabitants owe their Origin to this necessary Evil: The Cázee has also his Substitutes in the Districts, but their legal Powers are too limited to be of general Use, and the Powers which they assume being warranted by no lawful Commission, but depending on their own Pleasure, or the Ability of the People to contest them, is also an Oppression.

FROM

FROM this Variety of Materials we have endeavoured to form the Plan of a more compleat, but more extensive System of Judicature, by constituting Two Superior Courts at the Capital, the one composed of the united Magistracy of the Adawlut al Aalea, the Adawlut Dewannee and the Cázee (or Cázee's Office) for the Decision of Civil Causes, the other corresponding to the Phoujdaree, for the Trial of Criminal Cases. To prevent the Abuse of the Power vested in these Courts, and to give Authority to their Decrees, each instead of a single Judge is made to consist of several Members, and their Enquiries are to be conducted under the Inspection and Sanction of the Supreme Administration. To render the Distribution of Justice equal in every Part of the Province, similar but inferior Courts are also proposed for each separate District, and accountable to the superior. The usurped Power of the Officers of the Collections, and of the Creditors over the Persons of their Debtors, is abolished.

THE Judicial Authority, which by the Tenth Regulation is still allowed to the Farmers of the Revenue, is a single Exception to the General Rule, which we have laid down of confining such Powers to the Two Courts of Adawlut; but as this is restricted to Cases of Property not exceeding Ten Rupees, and as they have no Power of inflicting Punishment, or levying Fines, we think an ill Use is not likely to be made of so inconsiderable a Privilege, especially as they themselves are amenable to the Courts of Justice, which will be always ready to receive Complaints against them, and some such Means of deciding the trifling Disputes of the Ryots upon the Spot, is absolutely necessary, as they cannot afford, nor ought to be allowed on every mutual Disagreement, to travel to the Sudder Cutcherry for Justice.

THE detestable and authorized Exactions of the Phoujdaree Court, which had its exact Imitators in every Farmer and Aumil of the Province, under

under the Denomination of Bazee Jumma, have been prohibited, conformably to the wise and humane Injunctions of our Honourable Masters, who, from the same Spirit of Equity, have renounced the Right hitherto exercised by the Country Government, and authorized by the Mahometan Law, to a Commission on the Amount of all Debts, and on the Value of all Property recovered by the Decrees of its Courts, a Practice repugnant to every Principle of Justice, as it makes the Magistrate a Party in the Cause on which he decides, and becomes a legal Violation of the Rights of private Property, committed by that Power, which should protect and secure it.

It has also been our Aim to render the Access to Justice as easy as possible.

By keeping exact Records of all Judicial Proceedings, it is hoped that these Institutions, if they receive the Sanction of your Approbation, will remain free from the Neglects and Charges, to which they would be liable from a less frequent Inspection.

We have judged it necessary to propose some Exceptions to the Order of the Honourable Court of Directors, for the total Abolition of Fines in the Court of Phoujdarree. All Offences are not punishable by Stripes, and to sentence Men of a certain Rank in Life, or of a superior Cast to such a public Disgrace, would exceed the Proportion of the Offence, and extend the Punishment to all the Relations and Connections of the Delinquent; to suffer him to escape, with total Impunity, would be an Injustice in the other Extreme, in such Cases there is but the middle Way, which we can adopt with an equal Regard to the Spirit of our Honourable Masters Commands, and the Rights of Justice, and that is, by levying the Fine upon the Offender, but converting it to a Reparation of the Injury.

OUR Motives for the Abolition of the Fees of the Câzees and Muftees, will best appear in the following Extract of a Minute of our Proceedings at Kishen Nagur, relating to the Haldarree, or Tax on Marriages, which, for the Reasons therein assigned, we forbid to be levied any longer, and deducted from the Settlement of Nuddea: Convinced of the pernicious Effects of so impolitic a Tax, we propose to grant the same Exemption to the other Districts subject to our Direction, and submit to your Consideration, whether it will not be proper to make it general throughout the Province.

THE same Reasons which have induced us to abolish the Haldarree, operate with equal Force against the Fees of the Câzees and Muftees, which have always proved a heavy Grievance to the Poor, and an Impediment to Marriage: We have therefore determined on a total Abolition of these, and of the other less Dues hitherto allowed to these Officers, and to put them on the footing of Monthly Servants with fixed Salaries: We were led to this Resolution, not only by the speculative Advantages which it promised, but by the Experience which this Country has already had of its Effects, from a similar Institution of the Nabob Meer Cossim, about the Beginning of the Year 1763, which (as we are assured) was productive of more Marriages than had been known to take place for Years before; and Instances have been even quoted of Men of Forty and Fifty Years of Age, who 'till then had led a Life of Celibacy, immediately availed themselves of this Exemption to enter into a State, from which they had been before precluded, solely by the want of Means to support the various Expences attending it.

Extract

Extract of the Proceedings of the Committee at *Kish-*
Nagur, dated the 28th *June*, 1772.

"THE Collector explains the Haldarree or Custom on Marriage to be a
 "Tax levied by Government, at the variable Rate of Three Rupees; Three
 "Rupees Eight Annas, and Four Rupees Four Annas each: Besides the
 "Haldarree, there are Fees paid to the Câzees and Mustees: The former
 "receive from the principal Inhabitants Two Rupees; from the Second Class,
 "One Rupee Eight Annas; and from the lowest Class, One Rupee: Th
 "Fees of the Mustees are received from the Musicians, and other Peopl
 "who officiate at the Festival, so that on the whole, the Fees of Marriage may
 "be estimated at Six Rupees for each, exclusive of the Dues, or voluntary
 "Benefactions of the Gentoos to their Brahmins."

"THE Committee are of Opinion, and resolve accordingly, that all the
 "Fees and Taxes of this Article, which produce a Revenue to Government,
 "be abolished, as tending to discourage Population, an Object at all Times
 "of Importance to Government, but more especially at this Time, from the
 "great Loss of Inhabitants, which the Country has sustained by the late
 "Famine, and the Mortality which followed it: They are further of Opi-
 "nion, that the abolishing of the Fees to the Câzee and Musfee, will afford
 "a great Relief to the Inhabitants, as it will not only absolve them from the
 "Fees themselves, but also from the Effects of the oppressive Mode, in which
 "these Dues are exacted: But on this Subject, they judge it will be more
 "proper to come to a general Resolution at the City, and therefore postpone
 "the further Consideration of it, until their Arrival at that Place."

WE have judged it necessary, to add to the Regulations, with respect to the Courts of Phoujdarree, a Proposal for the Suppression and Extirpation of Decoits, which will appear to be dictated by a Spirit of Rigour and Violence, very different from the Caution and Lenity of our other Propositions, as it in some respect involves the innocent with the guilty. We wish a milder Expedient could be suggested, but we much fear, that this Evil has acquired a great Degree of its Strength, from the Tendernefs and Moderation, which our Government has exercised towards those Banditti, since it has interfered in the internal Protection of the Provinces. We confess that the Means which we propose, can in no wise be reconcileable to the Spirit of our own Constitution; but 'till that of Bengal shall attain the same Perfection, no Conclusion can be drawn from the English Law, that can be properly applied to the Manners or State of this Country. The Decoits of Bengal are not like the Robbers in England, Individuals driven to such desperate Courses by sudden Want: They are Robbers by Profession, and even by Birth: They are formed into regular Communities, and their Families subsist by the Spoils which they bring home to them; they are all therefore alike criminal; Wretches who have placed themselves in a State of declared War, with Government, and are therefore wholly excluded from every Benefit of its Laws. We have many Instances of their meeting Death with the greatest Insensibility; it loses therefore its Effect as an Example, but when executed in all the Forms and Terrors of Law, in the midst of the Neighbours and Relations of the Criminal, when these are treated as Accessaries to his Guilt, and his Family deprived of their Liberty, and separated for ever from each other, every Passion, which before served as an Incentive to Guilt, now becomes subservient to the Purposes of Society, by turning them from a Vocation, in which all they hold dear, besides Life, becomes forfeited by their Conviction; at the same Time, their Families, instead of being lost to the Community, are made useful Members of it, by being adopted into those of the more civilized Inhabitants.

Inhabitants. The Ideas of Slavery, borrowed from our American Colonies, will make every Modification of it appear in the Eyes of our own Countrymen in England a horrible Evil: But it is far otherwise in this Country; here Slaves are treated as the Children of the Families to which they belong, and often acquire a much happier State by their Slavery, than they could have hoped for by the Enjoyment of Liberty; so that in effect, the apparent Rigour, thus exercised on the Children of convicted Robbers, will be no more than a Change of Condition, by which they will be no Sufferers, though it will operate as a Warning on others, and is the only Means, which we can imagine, capable of dissipating these desperate and abandoned Societies, which subsist on the Distress of the general Community.

Alexander Higginson, *Secretary.*

Revenue Department,
Fort William, 3d Nov. 1772.

A PLAN,

A P P L A N,

FOR THE

ADMINISTRATION OF JUSTICE,

Extracted from the Proceedings of the COMMITTEE
OF CIRCUIT, 15th AUGUST, 1772.

I.

TH A T in each District shall be established Two Courts of Judicature, one by the Name of Mofussul Dewannee Adawlut, or Provincial Court of Dewannee, for the Cognizance of Civil Causes; the other by the Name of Phoujdarree Adawlut, or Court of Phoujdarree, for the Trial of all Crimes and Misdemeanors.

II.

TH A T for the better ascertaining the Jurisdiction of each Court, and to prevent Confusion, and a Perversion of Justice, the Matters cognizable by each respectively are declared to be as follows.

ALL

ALL Disputes concerning Property, whether real or personal; all Causes of Inheritance, Marriage and Cast, all Claims of Debt, disputed Accounts, Contracts, Partnerships, and Demands of Rent, shall be judged by the Dewannee Adawlut.

BUT from this Distribution is excepted the Right of Succession to Zemin-darrees and Talucdarrees, which shall be left to the Decision of the President and Council.

ALL Trials of Murder, Robbery and Theft, and all other Felonies, Forgery, Perjury, and all Sorts of Frauds and Misdemeanors, Assaults, Frays, Quarrels, Adultery, and every other Breach of the Peace, or violent Invasions of Property, shall be submitted to the Phoujdarree Adawlut.

III.

THAT in the Provincial Court of Dewannee, the Collector of each District shall preside on the Part of the Company, in their Quality of King's Dewan, attended by the Provincial Dewan, appointed by the President and Council, and the other Officers of the Cutcherry; that the Court shall be regularly held on every Monday and Thursday, and oftner if Necessity require, and that no Causes shall be heard or determined, but in the open Court regularly assembled.

IV.

THAT in the Phoujdarree Adawlut, the Cázee and Musfee of the District, and Two Moulavies shall sit to expound the Law, and determine how far the

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Delinquents

Delinquents shall be guilty of a Breach thereof; but that the Collector shall also make it his Business to attend to the Proceedings of this Court, so far as to see that all necessary Evidences are summoned and examined, that due Weight is allowed to their Testimony, and that the Decision passed is fair and impartial, according to the Proofs exhibited in the Course of the Trial, and that no Causes shall be heard or determined, but in the open Court regularly assembled.

V.

THAT in like Manner, Two Superior Courts of Justice shall be established at the Chief Seat of Government, the one under the Denomination of the Dewannee Sudder Adawlut, and the other the Nizamut Sudder Adawlut.

VI.

THAT the Dewannee Sudder Adawlut shall receive and determine Appeals from the Provincial Dewannee Adawlut; that the President with Two Members of the Council shall preside therein, attended by the Dewan of the Khalsa, the Head Canongos, and other Officers of the Catcherry; in case of the Absence of the President, a Third Member of the Council to sit, that is to say, not less than Three Members to decide on an Appeal, but the whole Council may sit if they chuse it.

VII. THAT

VII.

THAT a Chief Officer of Justice, appointed on the Part of the Nazim, shall preside in the Nizamut Adawlut, by the Title of Darogo Adawlut, assisted by the Chief Cāzee, the Chief Musṭee, and Three capable Moulavies; that their Duty shall be to revise all the Proceedings of the Phoujdarree Adawlut, and in Capital Cases by signifying their Approbation or Disapprobation thereof, with their Reasons at large, to prepare the Sentence for the Warrant of the Nazim, which shall be returned into the Mofussul, and there carried into Execution; that with respect to the Proceedings in this Court, a similar Control shall be lodged in the Chief and Council, as is vested in the Collectors in the Districts, so that the Company's Administration in Character of King's Dewan may be satisfied; that the Decrees of Justice, on which both the Welfare and Safety of the Country so materially depend, are not injured or perverted, by the Effects of Partiality or Corruption.

VIII.

THAT in order to preserve the Dignity and Importance of the Two Superior Courts, there shall be Two Courts of Adawlut established at the Seat of Government, exactly on the same Plan as those of the Districts: In that of the Dewannee, a Member of the Council shall preside, and in that of the Phoujdarree, another Member of the Council shall exercise the Control, specified in the Fourth Regulation: these Duties to be performed by the Members in Rotation.

IX. THAT

IX.

THAT as nothing is more conducive to the Prosperity of any Country, than a free and easy Access to Justice and Redress, the Collectors shall at all Times be ready to receive the Petitions of the injured; and further to prevent their being debarred this Access from Motives of Interest, Partiality, or Resentment in the Officers or Servants of the Cutcherry, that a Box shall be placed at the Door of the Cutcherry, in which the Complainants may lodge their Petitions at any Time or Hour they please; that the Collector shall himself keep the Key of this Box, and each Court Day have such Arzees as he may find in it, read immediately in his Presence, by the Arizbeggy of the Cutcherry.

X.

THAT in summoning from the Farmed Lands Persons complained against, or Evidences called on by the Parties, the Rule laid down in the Ninth Article of the Public Regulations is to be strictly adhered to. The Collector ought further to avoid, as studiously as possible, summoning any Persons from the Mofussul, who are any way connected with the Revenue, during the Months of Bhadoom, Assin, Aughun, and Poos, unless in Cases which call for immediate Enquiry and Example.

XI.

THAT in Order to facilitate the Course of Justice in trivial Causes, and relieve the Ryot from the heavy Grievance of travelling to a great Distance,

to

to seek for Redress, all Disputes of Property, not exceeding Ten Rupees, shall be decided by the Head Farmer of the Purgunnah, to which the Parties belong; and his Decree shall be final.

XII.

THAT the Procefs observed for trying Causes, in the Provincial Dewannee Adawlut, shall be as follows.—First, To file and read the Petition of the Complainant. Secondly, To allot a limited Time for the Defendant to give Answer, which when received shall also be filed and read.—Thirdly, To hear the Parties, *viva voce*, and if necessary examine Evidences; and lastly, To pass Decree.—That if in adhering to this Order of Procefs, the Defendant shall evade or delay giving Answer within the limited Time, Judgment shall pass against him.

XIII.

THAT compleat Records shall be kept in the Mofussul Dewannee Adawlut, in which shall be inserted the Petition of the Complainant, the Answer of the Defendant, the subsequent Procefs, and Examination of Evidence, and finally the Decree; that upon Decree being passed, both Parties shall be furnished with a Copy thereof, free of Expence, and that such Copies shall be authenticated under the Public Seal, and the signing of the Collector: That a Copy of the Records entire shall be also transmitted twice a Month, to the Sudder Dewannee Adawlut, through the Channel of the President and Council.

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XIV. THAT

XIV.

THAT each Collector shall also keep an Abstract Register of his Adawlut, in English, containing the Names of the Plaintiff and Defendant, the Substance of the Suit, the Substance of the Decree, the Date of the Cause being filed, and the Date of the Decree being passed; and this Abstract also shall be transmitted twice a Month, to the Sudder Dewannee Adawlut.

XV.

THAT as the Litigiousness and Perseverance of the Natives of this Country, in their Suits and Complaints, is often productive not only of Inconvenience and Vexation to their Adversaries, but also of endless Expence and actual Oppression, it is to be observed as a standing Rule, that Complaints of so old a Date as Years shall not be actionable: And further, should they be found guilty, as is often the Case, from the Principles above-mentioned, of flying from the one Court to the other, in order to prevent and protract the Course of Justice, the Party, so transgressing, shall be considered as nonsuited, and shall according to his Degree in Life, and the Notoriety of the Offence, be liable to Fine or Punishment.

N. B. By the Mahometan Law, all Claims which have lain dormant for Twelve Years, whether for Land or Money, are invalid.—This also is the Law of the Hindoos, and the legal Practice of the Country.

XVI. THAT

XVI.

THAT the Custom of levying Chout, Duffuttra, Puchuttra, or any other Fee or Commission on the Account of Money recovered, or Etlâk on the Decision of Causes, as well as all heavy arbitrary Fines, is absolutely and for ever abolished.

XVII.

THAT as however Cases may occur, in which it will be highly necessary, for the Welfare of the Community, to curb and restrain trivial and groundless Complaints, and to deter Chicane and Intrigue, which Passions amongst these People often work to the undoing of their Neighbours, a Discretion shall in such Cases be left to the Court, either to impose a Fine, not exceeding Five Rupees, or inflict Corporal Punishment, not exceeding Twenty Lashes with a Rattan, according to the Degree of the Offence, and the Person's Station in Life.

XVIII.

THAT in adjusting the Claims of old Debts, it shall be observed as a Rule, that they bear no further Interest after such Adjustment, but that the Amount shall be payable by Kistbundee, according to the Circumstances of the Party : And as the Rates of Interest, hitherto authorised by Custom, have amounted to the most exorbitant Usury, the following Rates are now established to be received and paid, as well for past Debts, as on future Loans of Money, viz.
On

On Sums not exceeding One Hundred Rupees Principal, an Interest of Three Rupees Two Annas *per Cent. per Menssem*, or Half an Anna in the Rupee: On Sums above One Hundred Rupees Principal, an Interest of Two Rupees *per Cent. per Menssem*, the Principal and Interest to be discharged according to the Condition of the Bond; and all Compound Interest, arising from an intermediate Adjustment of Accounts, to be deemed unlawful and prohibited: When a Debt is sued for upon a Bond, which shall be formed to specify a higher Interest than the established Rates, the Interest shall be wholly forfeited to the Debtor, and the Principal only recoverable; and that all Attempts to elude this Law, by Deductions from the Original Loan, under whatever Denomination shall be punished, by a Forfeiture of One Moiety of the Amount of the Bond to the Government, and the other Half to the Debtor.

XIX.

THAT all Bonds shall be executed in the Presence of Two Witnesses.

XX.

THAT whereas it has been too much the Practice in this Country, for Individuals to exercise a Judicial Authority over their Debtors; a Practice, which is not only in itself unlawful and oppressive, seeing a Man thereby becomes the Judge in his own Cause, but which is also a direct Infringement of the Prerogative and Powers of the regular Government; that Publications shall therefore be made, forbidding the Exercise of all such Authority, and directing all Persons to prefer their Suits to the established Court of Adawlut, and that the Collector shall particularly attend to this Regulation, which

which it is apprehended, will prove a great Means of Relief to the helpless Ryot from his merciless Creditor, the Money Leader.

XXI.

THAT in all Cases of disputed Property, regarding Lands, Houses, Landmarks, &c. where a local Investigation is required, an Aumin shall be chosen with the mutual Consent of the Parties, or if they cannot agree in the Choice of one Person, each shall have the Privilege of nominating his own, and the Collector shall decide upon their joint Report of Circumstances. The Collector is also to attend, that the Aumins do not accumulate Expences by unnecessary Delays, but that their Scrutinies and their Wages be limited to the Time he judges sufficient for performing the Service in Question. The Expende of the Enquiry to be defrayed by the Person who is cast.

XXII.

THAT in all Cases of disputed Accounts, Partnerships, Debts, doubtful or contested Bargains, Non-Performances of Contracts, and so forth, it shall be recommended to the Parties to submit the Decision of their Cause to Arbitration, the Award of which shall become a Decree of the Dewannee Adawlut; the Choice of the Arbitrators is to rest with the Parties, but they are to decide the Cause without Fee or Reward. The Collector, on the Part of Government, is to afford every Encouragement in his Power to Inhabitants of Character and Credit, to become Arbitrators, but is not to employ any coercive Means for that Purpose.

XXIII. THAT

XXIII.

THAT in all Suits regarding Inheritance, Marriage, Cast, and other religious Usages or Institutions, the Laws of the Koran with respect to Mahometans, and those of the Shaster with respect to Gentoos, shall be invariably adhered to: on all such Occasions, the Moulavies or Brahmins shall respectively attend to expound the Law, and they shall sign the Report, and assist in passing the Decree.

XXIV.

THAT the Decree of the Provincial Dewannee Adawlut, on all Causes, for Sums not exceeding Five Hundred Rupees, shall be final; but that for all above that Amount, an Appeal shall lie to the Sudder.

XXV.

THAT the Court shall have a Right of decreeing to the Party, in whose Favour Judgment is given, any specific Sum for Costs within the real Amount, or in general to decree with Costs. The Bill in both Cases to be taxed by the Court.

XXVI.

THAT Persons found guilty of preferring groundless, litigious or vexatious Appeals, shall be punished at the Discretion of the Sudder Dewannee Adawlut,

Adawlut, by an Enhancement of the Costs, which shall be given to the Respondent, as a Compensation for the Trouble and Expence which he shall have sustained.

XXVII.

THAT complete Records shall be kept and transmitted from the Provincial Phoujdaree Adawlut, to the Nizamut Sudder Adawlut, twice every Month, through the Channel of the President and Council. This exclusive of the Proceedings in Trials for Capital Crimes, which are to be transmitted as soon as closed.

XXVIII.

THAT the Collector shall also keep an Abstract Register, in English, of the Proceedings of this Court, in which shall be inserted only the Names of the Prisoners, the Crimes or Offences of which they stand charged, and the Sentence or Acquittal, which shall be transmitted in like Manner, twice every Month, to the Sudder Adawlut.

XXIX.

THAT the Authority of this Court shall extend to Corporal Punishment, Imprisonment, sentencing to the Roads and Fines, but not to the Life of the Criminal. In Capital Cases the Opinion of the Court, with the Evidences and Defence of the Prisoner, shall be transmitted to the Nizamut Adawlut, and having obtained their Confirmation, it shall be ultimately referred.

ferred to the Nazim for his Sentence, which shall be carried into immediate Execution, as directed in the Seventh Article.

XXX.

THAT Persons guilty of petty Misdemeanors, whose Rank, Cast or Station in Life, shall be thought to exempt them from Corporal Punishment, may be made liable to Fines; but should such Fines be laid for a larger Sum than One Hundred Rupees, they are not to be enforced or levied without the Confirmation of the Nizamut Adawlut; for which Purpose they are to be immediately reported, with a State of the Case, and the Cause of their being imposed.

XXXI.

THAT as the Forfeiture and Confiscation of the Property and Effects of Delinquents, sentenced to the Loss of Life may often occur, it is to be observed that such Forfeiture and Confiscation is not to depend on the Provincial Phoujdaree, but upon the Nizamut Adawlut: It is to be a standing Rule therefore, to transmit, with the Proceedings of the Trial, an Account of the Property and Effects of the Delinquent, and wait the Orders of the Sudder, whether they are to be surrendered to the Heirs, or confiscated to the State: In the latter Case a Sale is to be made, and the Amount brought to Public Account.

XXXII. THAT

XXXII.

THAT whereas the Honourable Company from Motives of Tendernefs and Solicitude, for the Peace and Happinefs of the Ryots, have determined to abolifh the Revenue, which has hitherto arifen from the Collections of the Phoujdarree Bâzee Jumma, the fame is accordingly to be made public; the Court is ftill to take Cognizance of all fuch Offences, but fhall inflict no other Punifhment for them than Stripes or Imprifonment, or Damages to the Party injured.

XXXIII.

THAT the fame Motives of Regard for the Tranquility and Happinefs of the Ryots, having induced the Government to relinquifh the Revenue arifing from the Raffooms, or Fees of the Câzee and his inferior Officers, of which the Inhabitants have long complained as a fevere Grievance: The Câzee and Muftee are therefore introduced in the Lift of Adawlut Officers at a Monthly Salary: In this Capacity they are to continue to attest all Writings, to perform all Ceremonies of Marriages, Births and Funerals, and to difcharge all their other Functions as was customary heretofore; and as they are thus to be fupported at the Expence of Government, they are to exact no Fees, Dues or Taxes whatfoever: any Prefent or Gratification made with the entire free Will of the Party, on the Occafion of a Marriage or of a Funeral, is not prohibited by this Regulation: But if upon Complaint it fhall appear that Force or any other undue Influence has been ufed to extort fuch Gratifications, the Câzee or Muftee fo convicted, fhall be *ipfo facto* difmiffed from his Office, with Marks of public Difgrace.

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XXXIV. THAT

XXXIV.

THAT the Office of Yetafaub having become obsolete is now totally abolished, but that the Cājee and Muftee shall be allowed each Two Deputies for performing the Duties of their Office in the Purgunnahs, these to be stationed by the Collector at such convenient Distances as that the Ryots may not have above One Day's Journey to perform, for calling in their Assistance.

XXXV.

THAT whereas the Peace of this Country hath for some Years past been greatly disturbed by Bands of Decoits, who not only infest the High Roads, but often plunder whole Villages, burning the Houses, and murdering the Inhabitants: And whereas these abandoned Outlaws, have hitherto found Means to elude every Attempt, which the Vigilance of Government hath put in Force, for detecting and bringing such atrocious Criminals to Justice, by the Secrecy of their Haunts, and the wild State of the Districts, which are most subject to their Incurfions, it becomes the indispensable Duty of Government to try the most rigorous Means, since Experience has proved every lenient and ordinary Remedy to be ineffectual: That it be therefore resolved that every such Criminal, on Conviction, shall be carried to the Village to which he belongs, and be there executed for a Terror and Example to others; and for the further Prevention of such abominable Practices, that the Village of which he is an Inhabitant shall be fined according to the Enormity of the Crime, and each Inhabitant according to his Substance, and that the Family of the Criminal shall become the Slaves of the States, and be disposed of for
the

the general Benefit and Convenience of the People, according to the Discretion of the Government.

XXXVI.

THAT the Tannadars and Pikes of the Districts shall be punished by Dismissal, or Fines, if they neglect the Duties of their Charge, and as an Encouragement for them, to exert themselves in the Protection of the Villages committed to their Care, and in detecting, opposing and bringing to Justice all Decoits and other Offenders against the Public Peace, pecuniary Rewards, Grants of Lands, or particular Privileges and Immunities, shall be granted them, proportioned to their Deserts, and the Services which they shall have rendered the State.

XXXVII.

THAT in Addition to these General Regulations, the Collector shall form such subsidiary ones, for promoting the due Course of Justice, and the Welfare and Prosperity of the Ryots, as the local Circumstances of their respective Districts shall point out and require, and that they shall report the same to the Committee of Circuit, in order to their being communicated to the Board, for their final Sanction and Confirmation.

THAT they shall in particular, and without Delay, regulate and transmit for Confirmation, the Fees to be received by all Peons and Pikes, employed in the Service of the Courts of Adawlut, which can only be done with Accuracy from Information on the Spot. And that they shall further establish such Rules, with Penalties annexed, as may serve effectually to eradicate the Practice

Practice among the Officers and Servants of the Cutcherry, of exacting and receiving Bribes, from the Parties who have Causes in Suit; a Practice, not only criminal in the Persons who are guilty of it, but which reflects Discredit and Reproach on the Government under which they serve.

Alexander Higginson, *Secretary.*

Revenue Department,
Fort William, 3d Nov. 1772.

The

The Twelfth Paragraph of a Letter from the President and Council in *Bengal*, for the Department of the Revenues, to the Court of Directors, dated the 25th of *March*, 1773.

WE on the 18th Instant opened the Court of the Dewannee Sudder Adawlut, where several Appeals were lodged from the Provincial Courts; at this Meeting it appearing to the Members of the Court, that in order to render more compleat the Judicial Regulations, to preclude arbitrary and partial Judgments, and to guide the Decisions of the several Courts, a well digested Code of Laws, compiled agreeably to the Laws and Tenets of the Mahometans and Gentoos, and according to the established Customs and Usages, in cases of the Revenue, would prove of the greatest public Utility; the Court resolved that such a Code should be prepared, and properly digested, and they accordingly appointed fit Persons to execute this Work, by Three distinct Commissions, Two consisting of the present Officers of the Two Sudder Adawluts (or Supreme Courts of Justice) and a Third of Ten of the most learned Pundits, or Expounders of the Gentoo Law; we are aware that it will be a Work of Time; but as when compleated, it promises to contribute essentially to the Security of the Property and Person of the Subjects, we shall spare no Pains to see it accomplished.

The Thirteenth Paragraph of a Letter from the President and Council in *Bengal*, for the Department of the Revenues, to the Court of Directors, dated the 15th of *March*, 1774.

In the Twelfth Paragraph of our Letter by the Hector, we advised you, that we had appointed proper Persons to compile a Code of the Mahometan and Gentoo Laws; and at our Consultation of the 10th of December, the President reported, that the Pundits had nearly compleated the latter in the Shanscrite Language, and that a Translation of it was making into the Persian; as it appeared to the President, and to the Board, that a Translation of the Persian into the English would not only be serviceable in itself in enabling the Members to decide with Confidence, and without Reference to others, in such Cases as turn on Points of the Gentoo Law, in their Capacity of Judges of the Superior Court of Adawlut, but that it might also prove worthy of the Attention of the Public, and remove the false Prejudices which seem to have prevailed in *England*, respecting the Laws of this Country, we resolved that such a Translation should be made. The whole will be a Work of great Labour and Size, and require a considerable Time to compleat; but to enable you to form some Idea of the Laws of the Gentoos, and to satisfy the Enquiries of the curious, we transmit in this Packet a Translation of the First Section.

To

To the Honourable the Court of Directors, for the Affairs
of the Honourable United Company of Merchants of
England, Trading to the East-Indies.

Fort William, 24th of March, 1774.

Honourable Sirs,

You have been informed, by the public Letter from the Revenue Department, of the Progress which has been made by the Pundits or Brahmins, whom the Board had employed in compiling from the Books of their Law, a Code, which might serve as a Guide to our Dewannee Courts; and we transmitted to you, in the Packet from that Office, as a Specimen of the projected Work, an English Translation of the First Chapter. I am indebted to the Ability and Industry of the Translator, for the Means of furnishing you with a Second Chapter, which I am desirous of transmitting to you, as it comprehends the most important Subject of their Laws, the Distribution of Property by Inheritance.

FROM the Labours of a People, however intelligent, whose Studies have been confined to the narrow Circle of their own Religion, and the Decrees founded upon its Superstitions, and whose Discussions in the Search of Truth have wanted that lively Aid, which it can only derive from a free Exertion of the Understanding, and an Opposition of Opinions, a perfect System of Jurisprudence is not to be expected.

YET if it shall be found to contain nothing hurtful to the Authority of Government, or to the Interests of Society, and is consonant to the Ideas,
Manners,

Manners, and Inclinations of the People, for whose Use it is intended, I presume, that on these Grounds it will be preferable to any which even a superior Wisdom could substitute in its room.

It is from this Conviction, and from an Apprehension of the Effects, which a contrary Opinion might produce, that I have been so earnest in transmitting these Sheets for your Information, as they will afford at least a Proof, that the People of this Country do not require our Aid to furnish them with a Rule for their Conduct, or a Standard for their Property.

I HAVE ventured to say thus much on a Subject, which may possibly appear to have been irregularly obtruded upon your Notice, because Reports have a long Time prevailed, and been communicated to us by the best of private Authority, of an Intention to frame new Courts and Forms of Judicature, for the Inhabitants of these Provinces. Whatever Foundation these Reports may have in Truth, or whatever may be the Extent or Principles of the Jurisdiction herein supposed, I cannot but express my Hope, that nothing of this Kind may be finally concluded, without an Opportunity being given to the Members of your Administration, to communicate such Ideas as their Experience may suggest to them; and this I conceive to be my Duty, from the Consideration of the hurtful Effects, which an unadvised System might possibly produce, to the Quiet of the People, and the Security of your Revenue.

I HAVE the Honour to be, with the greatest Respect,

Honourable S I R S,

Your most obedient and most humble Servant,

Warren Hastings.]

T R A N S L A T I O N
Of a W O R K,

Compiled by the P U N D I T S, &c.

C H A P. I.

Of Lending and Borrowing.

MEN are permitted to lend Money, but they should not lend to Women, Children, or Servants; and whenever they lend, it shall be upon the Credit of a Pledge, a Security, a Bond, or Witneſſes, whichever of the Four is moſt to their Satisfaction, and not otherwiſe; the Pledge and Security are to anſwer the Payment of the Debt; the Bond and Witneſſes to prove its Validity.

Section I. Of Intereſt.

Section II. Of Pledges.

Section III. Of Securities.

Section IV. Of Diſcharging Debts to whomſoever due.

Section V. Of the Methods of Recovering Debts.

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SECT.

S E C T. I.

Of Interest.

I.

IF a Loan be granted upon a Pledge to a Man of the Brahmin Cast, the Monthly Interest shall be One Part in Eighty upon the Principal; at this Rate, if the Principal be Eighty Rupees, the Interest shall be One Rupee *per* Month.

II.

IF a Loan be granted upon Security to a Brahmin, Firff, One Part in Eighty upon the Principal is allowed, that is to say, One Rupee, and also One Eighth of One Eightieth of the Principal, which upon Eighty Rupees amounts to Two Annas; these Two Sums are to be added together for the Monthly Interest, so that, upon a Principal Debt of Eighty Rupees, the whole Interest at this Rate is Two Rupees Two Annas *per* Month.

III.

IF a Loan be granted to a Brahmin without Pledge or Security, the Monthly Interest shall be Two *per* Cent.

IV. IF

IV.

If a Loan be granted to a Man of the Chehteree Cast, in that Case, where a Brahmin pays Interest One Rupee, the Chehteree shall pay One Rupee Eight Annas; where the Brahmin is charged One Rupee Two Annas, his Interest shall be One Rupee Eleven Annas; and in the place of Two Rupees, the Chehteree shall give Three.

V.

If a Loan be granted to a Man of the Bice Cast, he shall be charged double the Interest of a Brahmin.

VI.

If a Loan be granted to a Man of the Sooder Cast, in that Case, where a Brahmin pays Interest One Rupee, the Sooder shall pay Two Rupees Eight Annas; in the place of One Rupee Two Annas, he shall give Two Rupees Thirteen Annas; and instead of Two Rupees, he shall be charged Five.

VII.

It is allowed the Tribe of Bice to charge Interest, at the Rates herein already specified, in Times either of public Calamity, or in public Prosperity.

VIII. Also.

VIII.

ALSO it is allowed the Brahmin, the Chehteree, and the Sooder, in Times of Calamity, to demand the above Interest.

IX.

BUT in Times of Prosperity it is Criminal in the Brahmin, the Chehteree, or the Sooder, to charge Interest at these Rates.

*Explanation of the various Denominations of Interest, which
are of Six Sorts.*

X.

THE First is Kau-ee-kau, so called, when Money is lent upon a stipulated Interest, with Agreement to be paid Yearly.

XI.

THE Second is Kau-lue-kau, so called, when, according to the Rate of the Agreement, Interest is to be paid Monthly.

XII. THE

XII.

THE Third is Chickerberdehee, so called, when, upon a Debtor's Inability to pay the Interest upon his original Debt, the Principal and Arrears of Interest are added together, and Interest commences upon the aggregate Sum.

XIII.

THE Fourth is Cortee-au, so called, when, in Times of Calamity, the Borrower voluntarily agrees to advance the Rate of Interest, which he must pay accordingly.

XIV.

THE Fifth is Seekhauberdehee, so called, when, according to the Rate of Agreement, Interest is to be paid Daily.

XV.

THE Sixth is Bhook-Caubheh, so called, when a Creditor receives a Profit upon any Thing delivered over to him as a Pledge; as for Instance, when a Man pledges with another any useful Animals, as Kine, Buffaloes, Goats, Horses, Camels, Elephants, &c. or Fruit Trees; as Mango Trees, Jacks, Cocoa Trees, Betel, &c. or Houses, or tilled Land, or Womens Ornaments, or Pots, or Cloaths, or Mats, Carpets, &c. and if they be applied to Use, and

it be agreed, between those Two, that the Produce, or Usufruct of the Pledge, shall appertain to the Creditors in lieu of Interest.

XVI.

IN Times of public Calamity, either of the Four Tribes of Brahmin, Ghehteree, Sooder, or Bice, may receive Interest, at the Rate of One Part in Eighty, being One Rupee (as hath been herein already explained in a separate Article) by either of the Three Modes of Kau-ee-kau, Kau-lu-kau, and Chickerberdehee.

XVII.

EITHER in prosperous or calamitous Times, it is criminal for either of these Four Casts, except only the Bice, to exact Interest by either of the Three Modes of Cortee-au, Seekhauberdehee, or Bhook-Caubheh.

XVIII.

IT is lawful for the Tribe of Bice to receive Interest by either of the Three Modes of Cortee-au, Seekhauberdehee, and Bhook-Caubheh, in Times of Calamity, but in a prosperous Season criminal.

XIX.

IF a Creditor hath received no Interest upon his Money for Fifty Months, and if still a longer Time should elapse, yet the Arrears of Interest shall rise

no

no higher than to double the Principal; and the Four Modes of Cortee-au, Kau-ee-kau, Kau-lu-kau, and Chickerberdehee, may be applied to collect the Interest upon this double Principal.

XX.

If Interest, by the Two Modes of Seekhauberdehee and Bhook-Caubheh, hath been paid for a very considerable Time, yet there shall be no Release from it, until the Principal Debt be discharged.

XXI.

NEITHER of the Three Tribes, Brahmin, Chehteree, or Sooder, but only the Bice, shall receive Interest by these Six Methods in Times of Prosperity.

XXII.

THERE is a Tribe, denominated Burren-Sunger, composed of such whose Father and Mother, being of Two different Tribes, have begotten Children; if a Man of this Cast should borrow Money, he shall pay One Part in Sixteen upon the Principal; at this Rate, the Interest upon One Rupee is One Anna.

XXIII.

If a Creditor, by violent Means, causes his Debtor to agree to an increased Rate of Interest, the Agreement shall not be valid.

XXIV. If

XXIV.

If a Man borrows Money without a Pledge given, the Son of his Grandson shall not pay the Debt.

XXV.

If a Man borrows Money upon a deposited Pledge, the Son of his Grandson must discharge the Debt.

XXVI.

If a Man borrows Money without stipulated Interest, and upon the Demand of his Creditor goes abroad, without sufficient Reason, and a Call of Business, or lurks secretly in his own House, fraudulently contriving Means to delay and to refuse Payment, in that Case, after Three Months, Interest upon the Debt shall commence from the Beginning of the Fourth Month; but if the Debtor goes abroad upon real and necessary Occasion, he shall pay Interest after the Expiration of One Year.

XXVII.

If a Man borrows Jewels, Pearls, Coral, Silver, Gold, Cotton, or Cloaths made of Silk or of Goats Hair, and any considerable Time elapse without Repayment, yet shall the Interest upon such a Debt arise no higher than to double the Principal.

XXVIII. If

XXVIII.

If a Man, having purchased Goods upon Credit, fraudulently goes abroad without Payment, or absconds in his own House, and by prevaricating Excuses and Delays contrives to with-hold the Purchase-Money, in that Case, after Six Months are elapsed, Interest shall be accounted due from the Beginning of the Seventh; if the Purchaser is called abroad by his necessary Business, he shall pay Interest after the Expiration of One Year.

XXIX.

If a Man hath committed ought to the Charge of another, who, on Application for the Return of the Trust, fraudulently absconds on a Journey, or if he leave not his own House, but by Excuses and Prevarications detains the Charge in his own Possession, in that Case, if Six Months elapse from the Time of such Application, he shall be charged Interest from the Beginning of the Seventh.

XXX.

SUPPOSE a Man to borrow a Quantity of the Grain called Shallee (or Paddy) upon this Agreement, that, at the Time of the Paddy Harvest, he will make an equitable and equivalent Return, in that Case, if, at the Time of Payment, Grain be something cheaper than when it was borrowed, he shall repay double the Quantity; if it be much fallen in Price, he shall pay Three Times as much; if it be still cheaper, Fourfold; and if its Value be exceedingly
M reduced,

reduced, he shall return Five Times the Quantity lent him, and this Fifth Increase he shall never be obliged to exceed; if the Price, at the Time of Repayment be risen, with respect to the Time of borrowing, the Brahmin shall pay for Interest Two in One Hundred Parts; the Chehteree Three in One Hundred Parts; the Bice double of the Brahmin; and the Sooder Five Parts in One Hundred.

XXXI.

If a Man borrows Cocoa-Nut Oil, or any Spiritous Liquors, or Ghee, and returns it not in Fifty Months, he shall repay Eight Times the original Quantity.

XXXII.

If a Man borrows Milk, Woollen Cloth, Perpets, Shawls, or Tapestry, and Carpets made of any Hair but that of Sheep, and returns it not in Fifty Months, he shall then repay Five Times the original Quantity.

XXXIII.

If a Man borrows any Kind of Cloth but those made of Silk, Iron, Copper, Tale, Brass, White Copper, Pewter, Tin, and Metals of this Kind, except Gold and Silver, and returns them not in Fifty Months, he shall then repay Three Times as much.

XXXIV. If

XXXIV.

If a Man borrows any Grain, except Paddy, as Wheat, Small Grain, Barley, and such Kinds of Grain, or Lentils, Gram, Mustard Seed, or Kunjud, and such other Produce of Tillage, and returns it not in Fifty Months, he shall repay it Fourfold.

XXXV.

If a Man borrows Green Herbs, as Cabbage, Lettuce, &c. and repays them not in Fifty Months, he shall repay them Fivefold.

XXXVI.

If a Man borrows Sugar Canes, and repays them not in Fifty Months, he shall then return Six Times the Quantity.

XXXVII.

If a Man borrows the Juice of the Sugar Cane, the better Sorts of Flowers, or of Fruits, Ginger, Radishes, Potatoes, or Yam, and any other of those Herbs whose Root is in common Use, whatever Quantity he borrowed, he shall return Three Times as much,

XXXVIII. 15

XXXVIII.

If dried Grafs, Fuel Wood, Bricks, or Leaves, or Things made of Leather, or Bone, or Scymetars, Spears, Daggers, Muskets, and this Kind of Warlike Instruments, or withered Flowers or Fruits of the worst Species, be borrowed, and not repaid in Fifty Months, yet no Interest is to be given on them; but if it be originally stipulated, it shall then be paid.

XXXIX.

If a Man sells Goods without receiving immediate Payment, and, upon Demand made for the Money, the Purchaser puts him off with frivolous Delays, either staying at his own House, or going abroad without sufficient Reason, Interest shall commence upon the Debt from the Beginning of the Fourth Month.

XL.

If a hired Servant hath been a long Time without receiving his Wages, yet he shall not demand Interest upon them, unless it be originally so stipulated.

XLI.

If a Man hath agreed to pay another a certain Fine on any Account, and a long Time elapse without Payment, he shall not give Interest, unless it be Part of the original Agreement.

XLII. If

XLII.

If a Man hath presented another with any Thing in the way of Friendship, which Present the Acceptor neither takes to his own House at the Time it is given, nor doth the Donor send it to him, yet shall no Interest be paid upon the Gift thus with-held, unless by a prior Agreement.

XLIII.

If a Man hath given another any Thing by way of Recompence, which, after being accepted by the Person to whom it is offered, is yet detained at the Donor's House, and not delivered up on Demand, Interest shall be paid upon its Value.

XLIV.

If a Man in a friendly Manner hath applied to his own Use any Thing of the separate Property of his Wife, on returning it, he shall give an Interest, together with the Principal; and if a Man by forcible Means hath taken ought belonging to his Wife, and doth not pay her both Principal and Interest, the Magistrate of the Time shall oblige him to pay Interest and Principal, and shall also fine him.

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XLV. IF

XLV.

If a Man having expended, on friendly Terms, any of his Wife's Property, and dies before he makes it good, his Son shall pay the Principal, so borrowed or expended, but without Interest.

XLVI.

If a Man offers to discharge a Debt, and the Creditor will not accept Payment, he shall not pay Interest upon the Debt, after such an Offer, unless it be previously stipulated.

XLVII.

If a Man, who has agreed to disburse a certain Sum for the Expences of a Marriage, or a Marriage Portion, pay it not for a considerable Time, he shall not pay Interest upon that Sum, unless according to previous Agreement.

XLVIII.

If a Man hath deposited a Pledge, and the Creditor possessing such Pledge applies it to his own Uses, or breaks it, or it be stolen from his House, in that Case he shall not pay Interest upon it, unless by Agreement.

XLIX. If

XLIX.

If a Man deposit a Pledge with another, and no Agreement be made that the Creditor shall make use of the Pledge, in that Case, supposing the Pledgee to apply to Use the Goods so pledged, he shall pay half Interest, according to the Rates herein already specified.

L.

If a Pledge, deposited in a Creditor's Hands, be spoiled, lost, or broken by any unforeseen Accident, in that Case, the Creditor shall still recover both Principal and Interest of his Debt; but the Debtor shall not receive the Value of his Pledge.

LI.

A MAN may lend Money to another of the same Tribe, to his Relations, or particular Friends, upon a Pledge only, but from all others he should demand a Bond and Security.

LII.

If a Man lends Gold to another, he shall appoint a fixed Day of Payment to his own Satisfaction; if he cannot fix a Day to his Mind, he may omit it.

LIII. If

LIII.

If a Man borrows Paddy, Wheat, Barley, Grain, Small Gram, Lentils or Doll, or Mustard-Seed of the Species of Grain and Pulse, or Salt of whatever Sort it may be, or Honey, Sugar, or Sugar-Candy of the Species of Sweet Things, or Round Pepper or Peepil, dried Ginger, Kurulah, or Indergo of the Species of Warm Bitters, or Tamarinds, or sower Plumbs, or Lemons of the Species of Acids, or Hurrah, Behura, and Oulah of the Species of Asuf, he shall surely fix a Day for Payment.

LIV.

WHERE several Men are Creditors to the same Debtor, they shall make a Sort of Common Stock of their Debts, and receive their respective Shares of each Payment; if any Creditor refuses to accede to this Agreement, he shall lose his Share of the Interest.

LV.

If a Man hath sold Rice or Wheat for sowing of the Species of Grain, or Mustard Seed, or Kunjud of the Species of Seeds, or the Seeds of Cotton, or Kurulah, or Pumpkin of the Species of Gourds, or the Seeds of the Water-Melon, Musk-Melon, or Cucumber of this Species, and they do not spring up from the Ground, but the Spot should become waste, the Seller of the Seed shall make good the Crop.

SECT.

S E C T. II.

Of Pledges.

I.

IF a Man, with whom a Pledge is deposited, should apply to his own Use the Things so pledged, and by that Means spoil it, he shall pay the Value of it to the Depositor, or procure another of the same Kind.

II.

IF a Man, who hath pledged ought to another for a Debt, offers to pay the Money, and demands his Pledge, which the Creditor fraudulently withholds, in that Case, the Magistrate shall exact a Fine from the Creditor, cause the Pledge to be restored to the right Owner, and the Debt to be forthwith discharged.

III.

IF a Person mortgage to another such a Quantity of Land as will serve for the Subsistence of One Man, for One Year, and afterwards mortgage the same Land to a Second Mortgagee, he shall be punished with Death; or if his Life be spared, he shall be fined One Hundred Gold Mohurs; and if the Criminal

be a Brahmin (which Tribe is exempt from Capital Punishment) he shall still pay the Fine of One Hundred Gold Mohurs.

IV.

If a Man mortgage a Quantity of Land less than will suffice to maintain a Man One Year, and afterwards engage the same Ground to a Second Mortgagee, the Magistrate shall fine him Sixteen Gold Mohurs.

Is a Man who has pledged a Thing to another, and by that Person's Order, he shall pay the Value of

If a Man hath deposited a Pledge with another, and suffers it to lie a considerable Time unredeemed, yet the Creditor shall not apply the Deposit to his own Use, sell it, or spoil it, or pledge it as his own to another Person; if he acts in Contradiction to this, he shall be obliged to make good the Pledge.

VI.

If a Man, having pledged any Thing to one Person, fraudulently contrives to engage the same Article as a Pledge to a Second, the First Engagement shall be considered valid, and not the Second; but yet the Second Creditor shall receive both Principal and Interest on his Money; and he who thus transgresses the Laws of Justice shall be punished as a Robber.

VII. If

VII.

If a Man pledges the same Article with Two Persons, and it be not known which Transaction was prior in Date, then, whichever of the Creditors, without Molestation of the other Pledgee, attaches the Pledge, it shall be accounted valid with respect to him; if a Dispute arises, the Two Creditors shall have equal Share in the Deposit.

VIII.

If any Transaction between Two People pass before Witnesses only, and a Third Person produce a written Instrument of the same Transaction, attested also by Witnesses, the Writing thus witnessed shall be accounted valid.

IX.

If a Man pledge ought to another without a written Agreement, and afterwards deposit the same Pledge with a Second Person, adding a regular written Instrument to testify the Validity of this Second Pledge, in that Case, the Second Engagement shall stand good, and the Borrower shall return back the Money lent him by the First Creditor.

X.

If a Man mortgage to another a certain Quantity of Land, and the Mortgagee, by forcible Means, appropriates to his own Use a larger Space of Ground than is specified in the Agreement, in that Case, the Magistrate, without causing the Debt to be discharged, shall restore the mortgaged Ground to the right Owner, and hold the Mortgagee criminal.

S E C T.

S E C T. III.

*Of Security.**There are Four Sorts of Security.*

I.

WHEN a Man, desirous to borrow Money, is refused, by the Person whom he addresses, from a Want of Confidence in his Ability to repay it, if in the mean Time a Third Person should advise the refusing Party to lend the Money, and should promise, that if the Debtor absconds upon the Day of Payment, he will cause him to appear, he, who by such Advice causes the Money to be lent, engages himself in a Kind of Security, and if he cannot produce the Borrower, when Payment becomes due, he must discharge the Debt, both Principal and Interest: If he dies his Son shall not make good the Loan.

II.

WHEN a Man, who is requested to lend Money, doubts the Character of the Borrower, and enquires it of a Third Person, if this Man should
answer

answer to the others Character; and affirm, that to his own Knowledge he is worthy to be trusted, by thus inclining the Party to lend the Money, he is to be considered as a Kind of Security; and whoever, by giving a good Character to a bad Man, enables him to borrow Money, and this Circumstance can be proved, the Recommender shall be obliged to make good both Principal and Interest of the Debt; but if he dies, his Son is not answerable for the Money.

III.

WHEN a Man, desirous to borrow Money, is refused, because the Person of whom he requests it has no Opinion of his Credit, if a Third Man should say, Lend him what he desires, and I will be answerable for it, this also is a Kind of Security; and if the Borrower refuses Payment, the Security must discharge both Principal and Interest of the Debt; also if he dies, his Son shall make good the Principal.

IV.

WHEN a Man, desirous to borrow any Thing for a Time, promising to return it as soon as the Business for which it is wanted shall be finished, is refused the Use of it, if another Person should advise the Possessor of the Thing required to lend it, and should promise, that he will take care to see it returned, this also is a Mode of Security; and if the Borrower returns not the Article lent him, the Security shall make it good, with Interest upon its Value; also if he dies, his Son shall be answerable for the Principal.

V.

If a Debtor, on the Day agreed for discharging of his Debt, should be unable to appear, either from some natural or public Calamity, or from a necessary

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Attendance

Attendance on a Court of Justice, it is not to be accounted a Fault in the Man who became Security for him; but when the Debtor's Cause of Delay is removed, the Security must then procure his Appearance, or, upon Failure, must himself be answerable for the Cause in Dispute.

VI.

If a Man dies, who, having deposited a Pledge, is become personal Security for another, his Son shall discharge the Principal Debt.

VII.

If a Man who is Security for another should die, his Grandson and Great-Grandson are not answerable.

VIII.

If several Men become Securities for a Debtor who fails to discharge his Debts, all the Securities shall pay the Money in equal Shares.

IX.

If, at the Time of lending Money, the Lender should say to the Securities, Here are several of you engaged, but I expect, that any One of you, whom I may happen to find when Payment becomes due, shall discharge the Debt, if also the Securities assent to this Stipulation, then, should the Borrower fail in his Engagements, the Creditor shall exact Payment of any One of the Securities whom he can first find, according to Agreement.

X. If

X.

If a Debtor should absent, and the Security is desirous to bring him to Appearance, the Creditor shall settle with the Security a reasonable Time for his Departure and Return, and shall permit him to go in Quest of the Debtor.

XI.

If a Security has not absolutely the Means to pay a Sum for which he bound himself, and the Creditor commences a Suit against him in a Court of Justice, the Magistrate of the Time shall appoint him to pay the Debt, by Instalments, according to his Ability, and shall not be too harsh and severe upon him, neither shall the Creditor be permitted to treat him with unreasonable Rigour, in the Exaction of his Claim.

XII.

If a Creditor of his own Head be extremely hard and severe upon a Security, whatever Money he hath by this Method extorted, after the Space of One Month and an Half, the Judge shall cause him to return double of that Sum to the Security; if it be within the Space of One Month and an Half, whatever Sum he hath received, the Judge shall cause him to return the like Sum to the Security.

According

According to the Book Chendeesur.

XIII.

IF a Security, unable to answer the harsh and importunate Demands of a Creditor, should give him ought, by way of Bribe, to satisfy him for the present, and then complain to a Court of Justice, if this Complaint be after One Month and an Half, the Judge shall cause the Creditor to give double of that Bribe to the Complainant; if the Complaint be laid within the Space of One Month and an Half, the Judge shall cause the Creditor to pay him a Sum equal to the Bribe.

According to the Book Gerhusurd.

XIV.

A MAN, who is unable to pay his Debts and the Fines of a Court of Justice, shall not be taken as a Security.

XV.

A MAN shall not accept a Security totally unknown to him, his own Master, an Enemy, a Prisoner, a very Old Man, a Partner living in the same Family, a Friend, or a Pupil.

SECT.

S E C T. IV.

Of Discharging Debts to whomsoever due.

I.

If a Man pays his Grandfather's Debts, he shall not be charged the Interest upon them.

II.

If a Man lends Money, on a positive Stipulation to be paid on a certain Day, and the Borrower also assents to this Restriction, the Money must absolutely be repaid accordingly.

III.

If a Man lends Money, with a Stipulation to be paid on Demand, and the Borrower consents to take it upon this Restriction, he shall accordingly pay it when demanded.

IV. If

IV.

If a Man dies in Debt, his Sons shall contribute their respective Shares to discharge his Obligation.

V.

If a Man dies in Debt, his Grandchildren shall respectively contribute to pay the Money.

VI.

If a Man dies in Debt, his Great-Grandchildren shall not pay the Money.

VII.

If a Man in Debt renounces the World, and becomes Takeer, his Sons and Grandchildren shall discharge his Obligations.

VIII.

A GREAT-Grandfather's Debts are not obligatory upon the Great-Grandson; but if it be his own Choice, the Great-Grandson may pay them.

IX. If

IX.

If a Man in Debt leaves his own Country, after he hath been absent Twenty Years, his Son shall pay his Debts; also a Grandson shall discharge the Debts of this Grandfather, after Twenty Years Absence; likewise within the Space of Twenty Years, the Son and Grandson may discharge the Debts of their Father and Grandfather, if they choose it; but the Creditor shall not, before the Expiration of Twenty Years, have Power to compel them.

X.

If a Man dies, who hath deposited, as Pledges for Money borrowed, Fruit Trees, tilled Land, Houses, Kine, Buffaloes, Goats, Horses, Elephants, and such Kind of useful Animals, or Pots, Cloaths, Mats, and such Things as have been already specified to produce an Interest for a Debt, his Great-Grandson shall discharge that Debt.

XI.

If a Man in Debt be absent from Home, and there be no Expectations that he will ever return, his Son and Grandson shall pay his Debts, within Twenty Years.

XII. If

XII.

IF a Man in Debt be Sick, beyond all Hopes of Recovery, the Son, in that Case, shall pay his Father's Debts.

XIII.

IF a Man be Blind from his Cradle, or an Idiot, or be overcome by the Infirmities of Age, or be afflicted with a Consumptive Spitting of Blood, and Phlegm, or with a Leprosy, and lives in his Son's Family, that Son shall discharge his Father's Debts; but if he lives apart from his Son, and contracts Debts, he shall himself discharge them; and the Son has no Connexion with them.

XIV.

IF a Man lends Money upon the Security of Two People, with Agreement that either of them, whom he may happen to find when Payment is due, shall be answerable for the Debt, in that Case, if One of the Securities should die, and leave no Children, and the other Security be absent from Home, the Son of the Absentee shall pay the Money; if both the Securities die, whichever of them leaves Children, the Son shall pay his Father's Share of the Obligation.

XV. BEFORE

XV.

BEFORE the Dissolution of a Partnership, if One of the Parties, being in Debt, leaves his Country, or dies, in that Case, whichever of the Partners be found on the Spot shall discharge the Debt.

XVI.

UPON the Absence of the Master of a Family from Home, whether Abroad or in his own Country, if his Servant borrows Money for the immediate Support of his Master's Household and Dependants, the Master, on his Return, must be answerable for the Debt.

XVII.

IF a Man dies in Debt, and his Son and Grandson, at the Time of his Death, be very young, and incapable of managing their own Affairs, they shall not pay his Debts, until they arrive at Years of Discretion, and then they shall discharge them, according to their Ability.

XVIII.

A FATHER shall not be compelled to pay his Son's Debts, but if he chooses it, from any Impulse of paternal Affection, he is permitted; but if a Father offers to be Security to a Man who has refused to lend Money to the Son, in that Case, the Father is obliged to pay what his Son borrows.

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XLX. L

XIX.

If a Man had been desirous to make a Present to another, without any sufficient Reason, and dies, leaving his Intention unfulfilled, his Son shall not give it.

XX.

If a Man had been desirous to make a Present to another, upon a proper and sufficient Cause, and dies in the mean Time, the Son shall fulfil the Father's Intention.

XXI.

If a Man dies, having incurred Debts by Gaming, or by drinking Spiritous Liquor, his Son shall not discharge them: This Law is calculated for those Persons, in whom Gaming, and the Use of Spiritous Liquors, is not accounted a moral Offence.

XXII.

If a Man who owed a Fine to a Court of Justice should die, leaving Part of the Fine unpaid, his Son shall not pay that Part; also if no Part of the Fine was paid in the Man's Lifetime, his Son shall not be answerable for it, in any respect.

XXIII. If

XXIII.

If a Man, by the Impulse of Lust, had promised any Present, and should die without fulfilling his Promise, his Son shall not give it.

XXIV.

If a Man, through the Impulse of Enmity, had agreed to give away any Thing, and dies without fulfilling the Agreement, his Son shall not give it.

XXV.

If a Woman, in Times of Calamity, or for the immediate Support of her Household, Relations, and Servants, should borrow Money, her Husband and Son must discharge the Debt; but if she contracts Debts on any other Account, her Husband and Son shall not pay them.

XXVI.

If the Wife of a Man of the Cast of Potters, of Washers, or of Cow-Herds, or Dancers, or Hunters, contracts a Debt, her Husband and Sons are answerable for it; also if a Man, or his Son, among those Tribes, contracts Debts, the Wife must pay them.

XXVII.

If a Woman borrows Money with the Consent of her Husband and Son, the Husband and Son shall repay it.

XXVIII. If

XXVIII.

If a Man, at the Point of Death, desires his Wife to discharge his Debts, if she inherits her Husband's Property and Possessions, she shall pay them accordingly.

XXIX.

If a Man dies in Debt, whoever happens to be his Heir shall discharge those Debts, but without Interest.

XXX.

If a Brahmin dies childless, whichever of his Kindred becomes Heir, he shall discharge his Debts; if he has no Relations, the Brahmins of the same Village, where the childless Brahmin resided, shall administer to his Estate, and pay his Debts; if no other Brahmins inhabit that Part, the Magistrate shall pay the childless Brahmin's Debts from the Amount of his Effects, and shall cast the Overplus into the Water.

XXXI.

If a Chehteree dies childless, and hath no Relations, or Kindred, the Magistrate shall take Administration of his Effects, pay from the Amount the Debts of the deceased, and keep the Overplus.

SECT.

S E C T. V.

Of the Methods of Recovering Debts.

I.

If a Creditor, on the Day appointed for Payment, demands his Money of the Debtor who refuses to discharge the Debt, first the Creditor shall speak to the Friends and Relations of the Debtor, and procure them to demand Payment; next he shall go in Person, and importune for his Money, and stay some Time at the Debtor's House, but without eating or drinking; if these Means fail, he shall carry the Debtor Home with him, and, having seated him before Men of Character and Reputation, shall there detain him; if ever this Method should not succeed, he shall endeavour, by feigned Pretences, to get hold of some of his Goods; or if any Pledge was deposited with him on lending the Money, he shall carry the Goods so pledged to the Magistrate, who shall cause the Deposit to be sold, and pay the Creditor his Debt, with Interest, from the Amount of the Sale; if he cannot, by evasive Means, distrain the Debtor's Goods, and also if no Pledge be in his Possession, he shall then seize and confine the Debtor's Wife, Children, Cattle, Buffaloes, Horses, and such Kind of useful Animals; also his Pots, Cloaths, Mats, and Furniture; and, seating himself at the Debtor's Door, shall there receive his Money; if even these Methods prove unsuccessful, he shall seize and bind the Debtor's Person, and procure, by forcible Means, a Discharge of the Debt.

If Men of very low Casts, Coolies, and handicraft Men, owe Money, they shall be seized, detained, and compelled to pay.

III.

If a Man lends Money to a Magistrate, to his own Master, or to a Brahmin, he shall not be rude and uncivil in procuring Payment.

IV.

If a Man hath lent Money to One of the same Family, or to a Man of bad Principles, he shall, by evasive Pretence, get hold of some of the Debtor's Goods, and by that Means procure Payment.

V.

If a Man of the low Tribe of Arzal be unable to pay his Debts, he shall be obliged to work out Payment by daily Labour.

VI.

If a Brahmin be unable to pay his Debts, the Magistrate shall appoint him to discharge them by little and little, according to his Means.

VII. If

VII.

If the Debtor and Creditor be both of the Brahmin Cast, the One shall not oblige the other to work out a Debt by daily Labour.

VIII.

If a Man of the Chehteree, Sooder, or Bice Cast, is too poor to pay his Debts, the Creditor may oblige him to work out the Amount in any Business of which the Debtor is capable, that is to say, the higher Cast may exact this Method of Payment from One inferior to itself, and Casts of equal Rank may thus mutually treat each other; but a low Cast cannot force the superior to compound Debts by Labour, but shall be paid by Instalments, on the Debtor's Inability to discharge the whole Debt at once.

IX.

If a Creditor, without previous Demand, seizes his Debtor by Force, and obliges him to work at a Business of which he is not capable, the Magistrate shall fine the Creditor, and dismiss the Debtor with the Debt unpaid.

X.

If a Man discharges not a Debt in Fifty Months from the Time of borrowing, so that the Interest of Chickerberdehee takes place, an Explanation

of:

of which hath been already given above, he shall settle the Mode to his own Satisfaction, and pay the Creditor his Money.

XI.

If a Man, who had long since deposited a Pledge in anothers Hands, should abscond, or die, the Creditor, in Presence of the Debtor's Friends, shall produce the Pledge, and ascertain its Value; after that, he shall keep it by him Ten Days; and if within that Space the Debtor's next Heir does not come in, and satisfy his Claim, he shall sell the Article pledged, and take his own Money, with Interest, from the Amount; if there be any Remainder, the Creditor is not to keep it.

XII.

If a Man acknowledges himself indebted to another, and yet refuses to pay, the Creditor shall use the Means above specified to recover his Money, without Hindrance or Molestation from the Magistrates; if the Debtor should lodge a Complaint, the Judge shall fine him, and cause the Creditor to be paid.

XIII.

If a Man, owing another any Money, should flatly deny the Debt, when Payment is demanded, the Creditor shall not have Power to take him into his own Custody, but shall cause him to appear before a Magistrate, and there, upon indisputable Proof of the Debt, shall receive his Claim; but if the Creditor be desirous to attach and confine his Debtor, in this case, without Knowledge of the Judge, he shall be fined.

XIV. If

XIV.

If a Man has lent some Gold Mohurs, and the Borrower acknowledges to have received some Rupees, but a less Sum than the Creditor pretends, also if the Lender demands Interest upon his Loan, and the Borrower asserts to have discharged the Interest already, or if the Creditor affirms to have lent the Money upon mere good Faith, and the Debtor says that he deposited a Pledge for the Loan, upon a Dispute of this Kind, the Creditor shall by no Means arrest the Debtor's Body, without Knowledge of the Magistrate; should he offend this Law he shall be fined.

XV.

If a very rich Man, of weak Understanding, and of a very mean Tribe, from a Principle of Fraud and Obstinacy, refuses to pay his Debts, the Magistrate shall oblige him to discharge the Money claimed, and fine him double the Sum.

XVI.

If a Man owes Money to several Creditors, he shall first discharge that Debt which was first contracted, and so in Order.

XVII.

IF a very rich Man, of an excellent Education, and of a superior Cast, from a Principle of Fraud and Obstinacy, refuses to pay his Debts, and the Creditor commences a Suit against him, the Magistrate shall cause the Money in Dispute to be paid, and shall also fine the Debtor One Twentieth of the Sum recovered.

XVIII.

IF a Debtor and Creditor are of equal Casts, and, on the Debtor's Refusal to pay his Debts, the Creditor should commence a Suit, the Magistrate shall cause the Money in Dispute to be paid, and shall also fine the Debtor One Tenth of the Sum recovered.

XIX.

IF a Man hath borrowed Money of several People in One Day, and the regular Order of borrowing cannot be ascertained, the Creditors shall all be paid in equal Shares.

XX.

WHEN a Creditor procures Payment of his Money by Application to a Magistrate, he shall give him One Twentieth of the Sum recovered for his Interposition.

XXI. WHEN

XXI.

WHEN a Debtor discharges his Debt by Instalments, he shall duly note upon the Back of the Bond the respective Sums so paid off; the Creditor also shall give a separate Receipt for each Payment: If the Debtor omits this Precaution, and the Creditor also has not given a Receipt for any particular Payment, the Sums so omitted shall not enter into the Account.

C H A P. II.

.XXX

Of the Division of Property, after Death of the Possessor.

WHEN a Father, or Grandfather, or Great-Grandfather, or Relations of this Nature, decease, or lose their Cast, or renounce the World, or are desirous to give up their Property, their Sons, Grandsons, and Great-Grandsons, and natural Heirs of this Kind, may divide and assume their Money, Arable Land, Orchards, Jewels, Coral, Cloaths, Pots, and Mats, Beasts, and Birds; in short, all the Estate, real and personal, of which the Persons thus circumstanced stand possessed; such Possessions are called Dace, meaning Possessions that are subject to be thus left and divided.

N. B. A Grandfather in this Translation always means a Father's Father; a Grandson always means a Son's Son; when the Female Line intervenes a different Term is used.

Section I. Of Inheriting the Possessions of a Father, a Grandfather, a Great-Grandfather, and other natural Relations.

Section II. Of Dividing the Possessions of the Berhemcharry, the Sinaffee, and the Banperuff.

Section III. Of a Woman's Property.

Section IV. Of Inheriting a Woman's Property.

Sect.

Section V. Of those incapable of Inheritance.

Section VI. Of Possessions liable to Division.

Section VII. Of the Division of Things acquired by Study.

Section VIII. Of the Division of Subsistence for Children.

Section IX. Of Possessions indivisible.

Section X. Of a Father's dividing and distributing his Means among his Children.

Section XI. Of a Father's dividing and distributing the Possessions of his Father and Grandfather among his Children.

Section XII. Of Sons dividing the Possessions left by their Father.

Section XIII. Of Dividing the Common Stock of Two People, who separate after having lived together.

Section XIV. Of the Share of a Partner of the Possessions of a long Partnership; as also of the Shares of the Sons of a Woman of the Sooder Cast, by Two different Husbands; as also of adopted Children.

Section XV. Of the Division of concealed Possessions, much or little; and the Methods of Enquiry into the Complaints of a Partner claiming his Share of Goods in Partnership.

Section XVI. Of the applying to a Man's own Service the Property, real and personal, of another, by using it.

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SECT.

S E C T. I.

Of Inheriting the Possessions of a Father, Grandfather, Great-Grandfather, and other natural Relations.

If a Man dies, or renounces the World, or for some Offence is driven from his Cast, his Relations, and Kindred, or is desirous to give up his Property, all his Possessions, be it Land, or Money, or Goods, or Beasts, or Birds, shall go to his Son; if he has but One Son, that Son is sole Heir; if he has more than One Son, they shall share his Fortune equally; if his Son be dead, it shall go to his Grandson; if there be but One, he shall have the whole; if more, they shall all share it equally; if he has no Grandson, it shall go to his Grandson's Son; if there be but One, he shall have the whole; if more, they shall all have equal Shares.

IN the Case where such a Person as before-mentioned has Three or more Sons, and One of them should die, leaving behind him One or more Sons, this Son, thus left, shall receive his Father's Share from his Uncle's Son.

IF a Man's Father or Grandfather be dead, he shall receive his Grandfather's Share, from his Grandfather's Brothers, in equal Proportion with them; if there be no Brother of his Grandfather, he shall receive his Share from that Brother's Son.

IF a Man has neither Son, Grandson, nor Grandson's Son, all his Property goes to his adopted Son; if the adopted Son be dead, to the adopted Son's Son; if he be dead also, to the adopted Son's Grandson; but if he also be dead, then, if the Estate has before been divided among the Heirs,

it goes to the Wife; if it has not been divided, it goes to the Brothers; but the Wife shall receive Food and Cloaths: This is according to the Adjudications of the Pundits of Meetut; but Sewanerteh, the Behtáchárigé, and Jeimoot Báhun, and Sirru Kishen, the Terkalunger, and others, deliver the Law in this Manner, viz. That if there be neither Son, Grandson, nor Great-Grandson, then, whether his Possessions have been divided among his Heirs or not, still the Husband's Share goes to the Wife; but if there be several Wives, they shall all have equal Shares; if there be only One Wife, she shall have the whole: This is a good Ordination, and is approved. If the Wife be not of bad Behaviour, and if she be in her Husband's House, then, in that Case, she shall inherit her Husband's Property; if she be of loose Carriage, and lives not in her Husband's House, or even if she lives with her Husband, but is of a bad Character, she shall not inherit.

A WOMAN may give any Thing of the Property she inherited from her Husband to the Brahmin, for the Purpose of procuring Repose to her Husband's Soul: If she gives the whole of it, the Gift is allowed to stand good; but she is blameable: She may also sell or pawn such Property to procure herself the immediate Necessaries of Life.

If there be no Wife, the Property goes to the unmarried Daughter; if there be but One, she receives the whole; if several, they all have equal Shares. If an unmarried Daughter, having inherited her Father's Property, should afterwards marry and die, leaving a Son, that Son shall receive the whole Estate: If she dies, leaving a Daughter, that Daughter shall not inherit: If she dies without a Child, her Inheritance does not go to her Husband, but shall be divided among her Sisters who have Children, or who are capable of Child-bearing, in equal Shares: (Women are capable of Child-bearing, until their monthly Courses cease entirely; when they cease altogether, it is certain the Woman shall bear no more Children:) Such a Sister, thus situated,

situated, shall not receive a Share of the Inheritance: If there be only One Sister, she shall receive the whole; if several, they all shall have equal Shares.

If there be no unmarried Daughter, then the Daughter who has borne Children, and the Daughter capable of Child-bearing, whether there be Two or more of them, shall have equal Shares of the Estate; if in this Case there be but One Daughter, she shall have the whole; but a Daughter who is barren, or who is a Widow, without Children, shall receive nothing; but if there be no Person belonging to the Family of the barren Daughter's Husband, or to the Family of the childless Widow, or they be distressed for the Necessaries of Life, they shall receive Food and Cloaths: And if it be positive and certain, that the barren Daughter shall ever remain barren, she shall be incapable of inheriting; according to the Ordinations of Jeimoot Bahun, and Sirru Kishen, the Terkalunger, and others; and this Ordination is a good one, and worthy to be approved; and Bachehputtu, the Missir, thus speaks, viz. That if there be no Daughter having Children, or capable of Child-bearing, then the Estate shall go in equal Shares to the barren Daughter, and to the Daughter who is a childless Widow; if of these there be only One, she shall inherit the whole; if more, they shall all have equal Shares.

If there be no Daughter, the Estate devolves to the Daughter's Son; if there be but One Son, he shall inherit the whole; if several, they shall have equal Shares: This Ordination is according to Sewanerteh, the Behtacharige, and Jeimoot Bahun, and Sirru Kishen, the Terkalunger, and Gopaul Puncha-anum, and worthy to be approved: And Govind Raje speaks to this Point, viz. That even during the Daughter's Lifetime the Daughter's Son shall inherit.

If Daughters having received Inheritance die, leaving Children, as One Daughter leaves One Son, the Second Two or more, these Sons shall divide the Estate among themselves, like Brothers of the same Parents.

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If there be no Daughter's Sons, the Inheritance goes to the Fathers; if there be no Father, the Mother; if there be no Mother, it shall go to the Brother born of the same Parents; if there be but One Brother, he shall have the whole; if several, they shall have equal Shares.

If there be Three or Four, or more Brothers, and among them all Two be Brothers by Blood, and the others but Half-Brothers, who have all separated, among these, if the Half-Brother returns to live with his Brother, and the Brother by Blood remains separate, the Half-Brother, who is the Companion, and the Brother by Blood, who lives separate, shall inherit in equal Shares; if both the Brothers by Blood, and the Half-Brothers after Separation, return to be Companions, then the First shall inherit, and the latter receive nothing; if One Brother by Blood, after Separation, returns, and another Brother by Blood continues separate, then the Brother who has returned shall inherit, and the Brother who continued separate shall be disinherited.

If a Parcel of Land hath not been divided among the Brothers, in that Case both the Brother by Blood and the Half-Brother, if they have separated and returned again, shall have equal Shares of the Land; also if after Separation they have continued at a Distance, they shall share it equally: And this Ordination, respecting the Separation and Re-union of Brothers, holds good also with respect to the Descendants of the Brother by Blood, and the Descendants of the Half-Brother.

If there be no Brother, the Estate goes to the Son of the Brother by Blood; if there be One Son, he receives the whole; if several, they shall all have equal Shares; if there be no Son of the Brother by Blood, the Inheritance devolves upon the Son of the Half-Brother; if there be One Son, he inherits the whole; if there be several, they shall all have equal Shares; if

there be no Son of the Half-Brother, an equal Share of the Inheritance goes to the Grandson of the Brother by Blood, and the Grandson of the Half-Brother; if there be but One Grandson in all, whether of the Brother by the same Parents or of the Brother by a different Mother, he shall have the whole Inheritance; if there be Grandsons of both the Brothers, they shall receive equal Shares: This Ordination is according to Sewanerteh, the Behtáchárigé, and Jeimoot Báhun, and Gopaul Panchaanum, and is approved: Sirru Kishen, the Terkalunger, says, that in case a Grandson of the Brother by Blood be living, the Grandson of the Half-Brother shall not inherit.

If there be no Brother's Grandson, Inheritance descends to the Sister's Son; if there be One Son, he inherits the whole; if several, they shall all receive equal Shares; if there is no Sister's Son, the Property goes to the Grandfather; if there be no Grandfather, to the Father's Mother; if there be no Father's Mother, to the Uncle by the Father's Side; if there be One Uncle, he receives the whole; if several, they all have equal Shares; if there be no Uncle by the Father's Side, Property goes to such Uncle's Son; if there be One Son, he receives the whole; if several, they all have equal Shares; if there be no Son of the Uncle by the Father's Side, Inheritance descends to such Uncle's Grandson; if there be One Grandson, he receives the whole; if several, they all have equal Shares; if there be no Grandson to the Uncle by the Father's Side, Inheritance goes to the Son of the Grandfather's Daughter; if there be One Son, he receives the whole; if several, they all have equal Shares; if there be no Son of the Grandfather's Daughter, Inheritance goes to the Son of the Daughter of the Uncle by the Father's Side; if there be One Son, he receives the whole; if several, they all have equal Shares; if there be no Son of the Daughter of the Uncle by the Father's Side, the Property goes to the Grandfather's Father; if there be no Grandfather's Father, to the Grandfather's Mother; if there be no Grandfather's Mother, to the Grandfather's Brother; if there be One Brother, he receives the whole;

whole; if several, they all have equal Shares; if there be no Grandfather's Brother, Inheritance goes to the Grandfather's Brother's Son; if there be One Son, he receives the whole; if several, they all have equal Shares; if there be no Grandfather's Brother's Son, it goes to the Grandfather's Brother's Grandson; if there be One Grandson, he receives the whole; if several, they all have equal Shares; if there be no Grandfather's Brother's Grandson, Inheritance devolves upon the Grandfather's Father's Daughter's Son; if there be One Son, he receives the whole; if several, they all have equal Shares; if there be no Grandfather's Father's Daughter's Son, Inheritance belongs to the Mother's Father; if there be no Mother's Father, it then devolves to the Uncle by the Mother's Side; if there be One Uncle, he receives the whole; if several, they all have equal Shares; if there be no Uncle by the Mother's Side, it goes to such Uncle's Son; if there be One Son, he has the whole; if several, they all have equal Shares; if there be no Son of the Uncle by the Mother's Side, Inheritance devolves to such Uncle's Grandson; if there be One, he receives the whole; if several, they all have equal Shares; if there be no Grandson of the Uncle by the Mother's Side, it shall go to the Grandson's Grandson; if there be but One, he shall have the whole; if several, they shall all have equal Shares; if there be no Grandson's Grandson's Son, it shall go to the Grandson's Grandson's Grandson; if there be but One, he shall have the whole; if several, they shall all have equal Shares; if there be no Grandson's Grandson's Grandson, Inheritance devolves upon the Grandfather's Grandfather; if there be none, upon the Grandfather's Paternal Uncle; if there be but One Uncle, he has the whole; if several, they have equal Shares; if there be no Grandfather's Paternal Uncle; upon the Grandfather's Paternal Uncle's Son; if there be but One, he has the whole; if several, they have equal Shares; if there be no Grandfather's Paternal Uncle's Son, the Property shall be vested in the Grandfather's Paternal Uncle's Grandson; if there be but One, he shall have the whole; if several, they all shall have equal Shares; if there be no Grandson of the Grandfather's

father's Paternal Uncle, it shall descend to the Grandfather's Grandfather's
 Daughter's Son; if there be only One, he receives the whole; if several,
 all shall have equal Shares; if there be no Grandfather's Grandfather's
 Daughter's Son, it shall go to the Grandfather's Grandfather's Father; if
 there be none, to the Grandfather's Grandfather's Brother; if there be but
 One, he has the whole; if several, all have equal Shares; if there be
 no Grandfather's Grandfather's Brother, Inheritance shall go to the Grand-
 father's Grandfather's Brother's Son; if One, he shall have the whole; if
 several, they shall have equal Shares; if there be no Grandfather's Grand-
 father's Brother's Son, it goes to the Grandfather's Grandfather's Brother's
 Grandson; if but One, he receives the whole; if several, all shall have equal
 Shares; if there is no Grandfather's Grandfather's Brother's Grandson, it
 goes to the Grandfather's Grandfather's Father's Daughter's Son; if there be
 but One, he has the whole; if several, all shall have equal Shares; if there
 be no Grandfather's Grandfather's Father's Daughter's Son, it goes to the
 Grandfather's Grandfather's Grandfather; if there be none, to the Grand-
 father's Grandfather's Father's Brother; if there be but One, he shall have
 the whole; if several, all shall have equal Shares; if there be no Grandfather's
 Grandfather's Father's Brother, Inheritance next belongs to the Grandfather's
 Grandfather's Father's Brother's Son; if there be but One Son, he shall
 have the whole; if several, all shall have equal Shares; if there be no Grand-
 father's Grandfather's Father's Brother's Son, it belongs to the Grandfather's
 Grandfather's Father's Brother's Grandson; if there be but One, he has the
 whole; if several, all have equal Shares; in Default of the Grandfather's
 Grandfather's Father's Brother's Grandson, it goes to the Grandfather's Grand-
 father's Grandfather's Daughter's Son; if there be but One Son, he has the
 whole; if several, all have equal Shares; if there be no Grandfather's Grand-
 father's Grandfather's Daughter's Son, it goes to any next near Relation in the
 Family; in Default of near Relations, to the distant Relations; if there be no
 distant Relations, the Magistrate shall in that Case inherit the Property of the
 Chehterre,

Chehteree, the Sooder, and the Bice, and the Possessions of the Brahmin shall go to the Person who gave the deceased the Goiteree: The Goiteree means a Kind of Charm or Incantation of the Hindoos, which is taught to the Brahmin at the Time of giving him the Brahminical Thread; in Default of this Man, the Inheritance shall go to the Pupil whom the deceased instructed in the Science of Bede; if there be but One Pupil, he shall have the whole; if several, all have equal Shares; if there be no such Pupil, with whom the deceased studied the Science of Bede under the same Tutor, if there be but One Fellow-Pupil, he shall have the whole; if several, they shall have equal Shares; if there be no such Fellow Pupil, then the Property shall go to a learned Brahmin, living in the same Village where the deceased Brahmin had his Residence; if there be no learned Brahmin there, it shall go to the unlearned Brahmins of that Village; if there are no Brahmins in that Village, it shall go to the Brahmins in the Environs of that Spot: The Magistrate shall by no Means ever touch the Property of a Brahmin.

S E C T. H.

*Of Dividing the Possessions of the Berhemcharry, the Sinassee,
and the Bánperust.*

If a Berhemcharry dies, his Property shall be inherited by the Man who taught him the Charm Goiteree; in Default of him, it shall go to another Berhemcharry: He is called a Berhemcharry, who, after assuming the Brahminical Thread, remains Twelve Years in the Wilderness, in the Presence of his Theological Instructor, applying himself to the Study of the Science of Bede, and sees not the Face of a Man of any other Cast but the Brahmin, and constantly employs himself in the Worship of God.

If a Sinassee dies, his Property shall go to his Pupil in Religion; in Default of him, to another Sinassee: He is a Sinassee, who, after Assumption of the Brahminical Thread, cuts all the Hair from his Head, burns the Brahminical Thread, and cloathing himself in Two Red Cloths, with a Bamboo Stick, of the Heighth of his own Stature, in his Right-Hand, and an Earthen Pot in his Left, forsakes for ever his Wife and Children, and becomes Takeer.

If a Bánperust dies, his Property shall go to his Fellow-Worshipper, in the same consecrated Spot; in Default of him, to another Bánperust: A Bánperust is he, who, after the Expiration of his Fiftieth Year, renounces the World, and dedicates himself to the Worship of God in the Wilderness, and returns no more to his own House.

S E C T.

S E C T. III.

Of a Woman's Property.

A WOMAN'S Property is called, First, Whatever she receives during the Ayami Shaddee, for Days of Marriage (the Ayami Shaddee begins with the Nandu Mookheh) the Nandu Mookheh is, when the Bridegroom, before the Marriage Exhortation is pronounced, performs the Tatcheh Buzurgwar, *i. e.* makes an Offering to the Priests for the Repose of his Father's and Grandfather's Soul, and ends with the Puntubbee Baden, *i. e.* the Salute of Respect made by the Bride to the Bridegroom. This intermediate Space of Time is called the Ayami Shaddee. Second, Whatever any Person gives her as she is going Home to her Husband's House, or coming from thence. Third, Whatever her Husband at any Time gives her, and whatever her Brother, or Mother, or Father may give her. Fourth, Whatever her Husband may give her to pacify her upon his contracting a second Marriage. Fifth, Whatever any Person may give her for Subsistence or Cloathing. Sixth, Whatever Jewels and Cloaths any Person may give her. Seventh, Whatever she receives from any Person as an Acknowledgement or Return for Work done by her. Eighth, Whatever she finds anywhere by Accident. Ninth, Whatever she receives for Painting, Spinning, Sewing with the Needle, and Labour of this Kind. Tenth, Whatever she receives from any Person, except from One of the Family of her Father, or from a Person of her Mother's Family, or from One of the Family of her Husband. Eleventh, Also, Whatever the Father and Mother of a Girl may give to the Son-in-Law, saying, at the same Time, that, This shall go to our Daughter; and even if they do not thus express themselves,

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at the Time of making this Gift, but do it with an Intention that it should revert to their Daughter: All and every of these Articles are a Woman's Property; but if among these, First, Her Husband should have given her Arable Land, Orchards, and Houses; or, Second, She, by her own Labour in Painting, Needle-Work, and such Employments, has gained any Thing; or, Third, Has received any Thing from another Person, than One of her Mother's, Father's, or Husband's Family, these Things thus received are not in her Disposal; all the rest, except the Things gotten by the Three Methods above specified, may be disposed of in any way that she may choose; but Arable Land, Orchards, Houses, the Gain upon Painting, and other Business, and whatever she receives from any Stranger, are not in her Power; yet if a Woman does not leave the Things acquired by the Three Modes above-mentioned, and also the rest of her Property to her Father, her Brother, or her Son, those Relations shall not inherit them.

If in the Time of a Famine, or for the Execution of some religious Intention, or on Account of Sickness, or to satisfy the Demands and Importunity of a Creditor for Debt, who has proceeded so far as to confine the Debtor without Victuals, if in these Cases a Husband appropriates to himself his Wife's Property, without her Leave, he is justifiable, nor is he obliged to return or repay what is so taken; but in Times of Plenty and Prosperity he may not take it; and if in such Times he takes his Wife's Property, without her Leave, he must repay both Principal and Interest; if he takes it with her Consent, he shall only repay the Principal: If a Man takes the Property of One Wife, and continues attached to a Second Wife, without behaving with proper Friendship and Civility to the First, the Magistrate shall cause him to return the Property so taken.

If a Husband does not give his Wife necessary Victuals and Cloaths, she shall get them by any Means in her Power.

If a Woman be of a malevolent Disposition, or wanting in female Modesty, or careless of her Property, or unchaste, such a Woman is not capable of possessing what has before been specified as a Woman's Property.

SECT.

S E C T. IV.

Of Inheriting a Woman's Property.

WHEN a Woman dies, then whatever Property she received during the Ayami Shaddee, even if she hath a Son living, shall go first to her unmarried Daughter; if there be but One unmarried Daughter, she shall have the whole; if several, they all shall have equal Shares: And if an unmarried Daughter, who has received her Mother's Property, should afterwards marry, and die childless, the Property so received shall not go to her Husband, but the Sisters of such a Woman shall inherit it; but if that Woman should leave a Son, that Son shall receive an equal Share of his Mother's Property, with his Mother's Sisters: If there be no unmarried Daughter, then the Property shall go to the Daughters who have Children, and the Daughters who are capable of Child-bearing, in equal Shares: If there be only One Daughter of this Kind, she shall receive the whole; if several, they all shall have equal Shares: If there be none of these Daughters, then the barren Daughter, and the Daughter who is a childless Widow, shall inherit the Property, in equal Shares; if also there be none of these Daughters, a Woman's Possessions shall go to her Son; if there be One, he shall have the whole; if several, they all shall have equal Shares; in Default of a Son, it shall go to the Daughter's Son; if there be One, he shall have the whole; if several, they all shall have equal Shares; in Default of a Daughter's Son, it shall descend to a Son's Son; if there be but One, he shall have the whole; if several, all shall have equal Shares; in Default of a Son's Son, it shall go to the Son's Son's Son; if but One, he takes the whole; if several, all have equal Shares; if there be no Son's Son's Son, a Woman's Property shall

shall go to her Husband's Son born of another Wife; if there be but One, he shall have the whole; if several, all shall receive equal Shares; if there be no Sons of her Husband by another Wife, it shall devolve to the Grandson of another Wife of her Husband; if there be but One, he shall receive the whole; if several, all shall have equal Shares; in Default of a Grandson of another Wife of her Husband, it shall go to the Son of the Grandson of another Wife of her Husband; if there be only One, he shall inherit the whole; if several, they all shall have equal Shares.

If there be no Son of the Grandson of another Wife of her Husband, then a Woman's Property shall go to her Husband, if they were married under One of the Five Forms of Marriage, to be explained below.

Explanation of Five of the Forms of Marriage.

I. Berahmeh.

II. Deeyb.

III. Arsh.

IV. Kándehrub.

V. Perájáput.

BERAHMEH, so called, when a Man has, with much Entreaty and Respect, prevailed upon a Person of Worth and Consequence to marry his Daughter, and,

and, upon that Account, the Father gives her very handsome Nuptial Presents at the Celebration of the Marriage.

II.

DEEYB, so called, when the Juk is first performed; the Juk is, when they pitch a Tent upon a select Spot of Ground, and make a Fire there, then, sprinkling the Fire with Ghee, utter some particular Prayers to the Deities; for the Duchneh of this Ceremony they adorn their Daughter with fine Ornaments and handsome Cloaths, and give her in Marriage to the Brahmin; the Duchneh is that Present which a Man gives to a Brahmin, whom he has procured to pray for him; in this Case, the Daughter is in lieu of the Present.

III.

ARSH, so called, when the Parents of a Girl receive One Bull and One Cow from the Bridegroom, on his marrying their Daughter.

IV.

KANDEHRUB, so called, when a Man and Woman, of their own Accord, and by Consent, interchange their Belts, or String of Flowers, and both make Agreement, in some hidden Place, to be Man and Wife.

V. PERAJAPUT,

V.

PERAJAPUT; so called, when the Parents of a Girl, upon her Marriage, say to the Son-in-Law, Whatever Act of Religion you perform, let our Daughter be united in the Performance of it with you; and the Son-in-Law assents to this.

If the Woman has no Husband at the Time of her Death, her Property shall go to her Brother; if there be but One Brother, he shall have the whole; if several, they all shall receive equal Shares; in Default of a Brother, it shall go to her Mother; in Default of a Mother, to her Father.

AND under the other Three Forms of Marriage, after a Woman's Death, in case she has no unmarried Daughter, or other Heirs of that Kind so near as the Son of the Grandson of another Wife of her Husband, according to the Degrees of Affinity already specified above, her Property shall go to her Mother; in Default of a Mother, to her Father; in Default of a Father, to her Husband.

Explanation of the other Three Forms of Marriage.

I. Ashore.

II. Rákhús.

III. Peishach.

I.

ASHORE, so called, when a Man, at his Wedding, gives Money to the Mother and Father of the Girl whom he marries, and also gives something to the Girl herself.

II. RAKHUS,

II.

RAKHUS, so called, when a Man marries the Daughter of any One whom he has overcome in Battle.

III.

PEISHACH, so called, when a Man, before Marriage, coming in the Dress and Appearance of a Woman, debauches a Girl, and afterwards the Mother and Father of that Girl marry her to this Person.

AFTER this Account of a Woman's Heirs, under the Eight different Forms of Marriage, which have been explained in Two Sections, if none, within the Limitations there set down, should remain, then the Property of a Woman after her Death, shall devolve to her Husband's Younger Brother; if there be but One Younger Brother, he shall have the whole; if more than One, they all shall receive equal Shares; in Default of her Husband's Younger Brothers, it shall go to her Husband's Younger Brother's Son, and to her Husband's Elder Brother's Son, in equal Shares; in Default of these, to her Sister's Son; if there be One, he shall receive the whole; if several, they all shall have equal Shares; if there be no Son of her Sister, it shall go to her Husband's Sister's Son; if there be One, he shall inherit the whole; if several, all shall share it equally; in Default of these, it shall go to her Brother's Son; if there be but One, he shall take the whole; if several, they shall have equal Shares; in Default of him, it shall go to her Daughter's Husband; if there be but One, he shall have the whole; if more, all shall have equal Shares; in Default of these, her Husband's Father

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shall inherit; in Default of him, her Husband's Elder Brother, if but One, he takes the whole; if more, all shall receive equal Shares; if there be no Elder Brother of her Husband, it shall go to her Husband's Brother's Grandson; if One, he inherits the whole; if several, all shall have equal Shares; in Default of these, it goes to her Husband's Grandfather; in Default of him, to her Husband's Paternal Uncle; if there be but One Uncle, he takes the whole; if several, all shall have equal Shares; if there be no Paternal Uncle's of her Husband, her Husband's Paternal Uncle's Son shall inherit it; if there be but One Son, he receives the whole; if several, they all must have equal Shares; in Default of these, it shall go to her Husband's Paternal Uncle's Grandson; if there be One, he shall have the whole; if several, they all shall receive equal Shares; in Default of such Grandson, it shall go to her Husband's Grandfather's Father; if there be none, to her Husband's Grandfather's Brother; if there be One, he shall receive the whole; if several, they shall have equal Shares; in Default of these, it shall devolve upon her Husband's Grandfather's Brother's Son; if there be but One, he shall take the whole; if several, they all shall have equal Shares; if there be no Husband's Grandfather's Brother's Son, the Inheritance shall belong to her Husband's Grandfather's Brother's Grandson; if there be only One, he receives the whole; if several, they shall divide it equally between them all; in Default of these, it goes to her Husband's Grandson's Grandson; if there be but One, he has the whole; if several, they all have equal Shares; in Default of these, it goes to her Husband's Grandson's Grandson's Son; if there be but One, it goes to him entire; if several, they all share it equally; in Default of these, it goes to her Husband's Grandson's Grandson's Grandson; if there be only One, he has the whole; if several, all have equal Shares; if these are extinct, it goes to her Husband's Grandfather's Grandfather; if there be not her Husband's Grandfather's Grandfather, it devolves upon her Husband's Grandfather's Father's Brother; if there be but One Brother,

Brother, he receives the whole; if several, all have equal Shares; if these are extinct, Inheritance comes to her Husband's Grandfather's Father's Brother's Son; if only One Son, he has the whole; if several, all have equal Portions; in Default of these, it goes to her Husband's Grandfather's Father's Brother's Grandson; if this Grandson be single, he takes the whole; if there be more than One, they divide it equally between them; if these are extinct, it goes to her Husband's Grandfather's Grandfather's Father; in Default of him, to her Husband's Grandfather's Grandfather's Brother, who receives the whole; if there be but One; if there are several, all are to have equal Shares; in Default of these, it goes to her Husband's Grandfather's Grandfather's Brother's Son; if there be but One, he takes the whole; if several, all have equal Portions; if these are extinct, the Property goes to her Husband's Grandfather's Grandfather's Brother's Grandson; if there is but One, he takes the whole; if several, they shall share it equally; on these being extinct, it goes to her Husband's Grandfather's Grandfather's Grandfather; in Default of him, to her Husband's Grandfather's Grandfather's Father's Brother, who, if there is but One, takes the whole; if there be more, they divide it equally among themselves; in Default of these, it goes to her Husband's Grandfather's Grandfather's Father's Brother's Son, who takes the whole, if there is but One; if there are several, they all have equal Shares; in Default of these, it goes to her Husband's Grandfather's Grandfather's Father's Brother's Grandson, who takes the whole, if there is but One; if there are more, all have equal Shares; if these also are extinct, it goes next to any One of her Husband's Family, who is a near Relation; if there are no near Relations, it goes to One more distant; if there are none even of these, then the Magistrate shall inherit the Property of the Wife of a Chehteree, a Sooder, or a Bice; and the Property of the Wife of a Brahmin shall go to the learned Brahmins of the Village where she lived; if there are no learned Brahmins, it shall go to the unlearned Brahmins of that Village; if there are none even of these, then the Brahmins of the Environs shall inherit it: But the Magistrate shall never touch the Property of a Brahmin's Wife.

THE Property of a Woman, exclusive of what she received during the Ayami Shaddee, and what her Father might have given her, before or after her Marriage, shall go, after her Death, to her unmarried Daughter, and to her Son, in equal Shares; if there be no Son, the Daughter shall receive the whole; if there is no Daughter, the Son shall be sole Heir; if there are several of these, they shall all have equal Shares; if there are none of these, then the Daughter who has Children, and the Daughter who is capable of Child-bearing, shall inherit equal Shares; if there is but One of these Daughters, she shall have the whole; if several, they all shall have equal Shares; if there are none of these, it goes to the Son's Son, who receives the whole, if there is but One; if there are several, all have equal Shares; in Default of these, it goes to the Daughter's Son; if there is but One, he takes the whole; if there are several, it is equally divided among them; if there is no Daughter's Son, the Son's Son's Son inherits; if there is only One, he takes the whole; if more, they share it equally; in Default of these, it goes to the Son of the Husband by another Wife; if there is but One Son, he receives the whole; if there are several, it is equally divided among them; in Default of these, it goes to the Grandson of the Husband by another Wife, who takes the whole, if there is but One; if more, they all have equal Portions; in Default of these, the Son of the Grandson of the Husband by another Wife inherits; if single, he takes the whole; if there are several, it is equally divided; if there are none of these, it goes to the barren Daughter, and to the Daughter who is a childless Widow, in equal Shares; if there is but One of these, she takes the whole; if several, it goes in equal Divisions; if there are none of these, then the Property of a Woman, who was married according to any of the Five Forms first herein specified, goes, after her Death, to her Husband; if her Husband be dead, to her Brother, who takes the whole, if there is but One; if there are several, it is equally shared amongst them; in Default of a Brother, it devolves upon the Mother; if she is dead, upon the Father; if her Father be dead also, then

then the Property of a Woman who was married according to either of the Three Forms herein last specified, if her Daughter and Heirs of that Nature, that have been already particularized, are extinct, shall go, after her Death, to her Mother; in Default of her Mother, to her Father; in Default of her Father, to her Husband; in Default of him, the Property of a Woman who was married according to either of all the Eight Forms described shall go, after her Death, to her Husband's Younger Brother; if there is but One, he shall have the whole; if there are more, all shall have equal Shares; if there are no Younger Brothers of her Husband, it shall go to her Husband's Elder Brother's Son, and her Husband's Younger Brother's Son, in equal Shares; if there is but One of them, he shall take the whole; if several, it goes to them all, by equal Divisions; in Default of these, a Woman's Property shall go to her Sister's Son; if there is but One, he shall have the whole; if several, all shall have equal Shares; in Default of these, her Husband's Sister's Son shall inherit the whole Property, if there is but One, by equal Shares, if there are several; if there are none of these, it goes to her Brother's Son, who inherits the whole, if single; if there are several, they all share equally; in Default of a Brother's Son, the Daughter's Husband inherits; if there be only One Daughter's Husband, he has the whole; if several, all have equal Portions; in Default of these, the Property of a Woman goes to her Husband's Father; if he is extinct, to her Husband's Elder Brother; if but One, he takes the whole; if there are several Elder Brothers, all have equal Shares; in Default of these, it descends to her Husband's Brother's Grandson, who, if single, receives the whole; if there are several, they all share alike; in Default of these, it goes to her Husband's Grandfather; if he is extinct, to her Husband's Paternal Uncle; if there is but One of these, he has the whole; if several, they share equally among them; in Default of these, it descends to her Husband's Paternal Uncle's Son or Sons, entire or by equal Divisions; if these are extinct, it goes to her Husband's Paternal Uncle's Grandson; if more than One, they all have equal Shares; if but One, he has it entire; in Default of these, it goes to her Husband's Grandfather's Father; in

Default of him, to her Husband's Grandfather's Brother; if there is but One, he has the whole; if several, they all have equal Shares; in Default of these, it goes to her Husband's Grandfather's Brother's Son or Sons, entire or in equal Shares; if these are extinct, it goes to her Husband's Grandfather's Brother's Grandson or Grandsons, entire or in equal Shares; in Default of these, reverts to her Husband's Grandson or Grandsons, entire or equally divided; in Default of these, to her Husband's Grandson's Grandson's Son or Sons entire, or equally shared; in Default of these, it goes to her Husband's Grandson's Grandson's Grandson or Grandsons, entire or in equal Shares; if these are extinct, the Property of a Woman is inherited by her Husband's Grandfather's Grandfather; in Default of him, by her Husband's Grandfather's Father's Brother or Brothers, entire or in equal Shares; in Default of these, by her Husband's Grandfather's Father's Brother's Son or Sons, entire or equally divided; or in Default of these, by her Husband's Grandfather's Father's Brother's Grandson or Grandsons, entire or in equal Shares; in Default of these, it goes to her Husband's Grandfather's Grandfather's Father; or in Default of him, to her Husband's Grandfather's Grandfather's Brother or Brothers, entire or in equal Shares; if they are extinct, to her Husband's Grandfather's Grandfather's Brother's Son or Sons, entire or equally divided; in Default of these, to her Husband's Grandfather's Grandfather's Brother's Grandson or Grandsons, entire or in equal Portions; in Default of these, it shall go to her Husband's Grandfather's Grandfather's Grandfather; if he is extinct, to her Husband's Grandfather's Grandfather's Father's Brother or Brothers, entire or in equal Divisions; in Default of these, to her Husband's Grandfather's Grandfather's Father's Brother's Son or Sons, entire or equally divided; in Default of these, to her Husband's Grandfather's Grandfather's Father's Brother's Grandson or Grandsons, entire or by equal Portions; if these are all extinct, then whatever next near Relation of her Husband's Family be alive shall inherit the Woman's Property; or in Default of a near Relation, One of distant Affinity shall succeed; if these are all extinct, the Magistrate shall be Heir to the Property of the Wife of a Chehteree, a Bice, or a Sooder; and if she be Wife of a Brahmin, the learned

Brahmins

Brahmins of the Village where she resided shall inherit her Property; in Default of these, the unlearned Brahmins of that Village shall be Heirs; in Default of these also, the Brahmins of the Environs shall inherit: The Magistrate shall never touch the Property of the Wife of a Brahmin.

WHATEVER a Father may have given his Daughter, either before or after Marriage, such Property, after the Woman's Death, goes to her unmarried Daughter or Daughters; if there be only One unmarried, she has the whole; if several, they all have equal Shares; if an unmarried Daughter, who has inherited her Mother's Effects, marrying afterwards, dies childless, such Property goes not to her Husband, but to her own Sisters; but if she dies, leaving a Son, that Son shall have an equal Share with his Mother's Sisters; if there be no unmarried Daughter, then the Daughter who has borne Children, and the Daughter who is likely to bear, shall receive the Property, either entire or in equal Shares, as there is One only or several of them; if there be none of these, then the barren Daughter and the Daughter who is a childless Widow shall be the next Heirs of the Property; if there is but One so circumstanced, she shall inherit the whole; if several, they all shall have equal Shares; in Default of all these, it shall go to the Son or Sons entire, if there be an only Son; or divided equally among them, if there are several; if there are no Sons, it shall go to the Daughter's Son or Sons, entire or equally divided; in Default of these, the Son's Son shall inherit; if there be only One, he shall have the whole; if several, all shall have equal Shares; in Default of these, the Son's Son's Son or Sons shall inherit the Property, entire or equally divided; if there are none of these, it shall go to the Son or Sons of another Wife of the same Husband, entire or equally divided; in Default of these, to the Grandson or Grandsons of another Wife of the same Husband, entire or in equal Portions; if these also are extinct, it shall next devolve, entire or equally divided, upon the Son or Sons of the Grandson of another Wife of the same Husband; in Default of these, the Property of a Woman,

who

who was married according to any One of the Five Forms herein first specified, shall revert to her Husband; if he be dead, to her Brother or Brothers, entire or in equal Shares; in Default of Brothers, it goes to her Mother; if she be dead, to her Father; if the Father be extinct, then the Property of a Woman who has married according to either of the Three Forms herein last explained; if upon her Death there be no Heir so near as the Son of the Grandson of another Wife of the same Husband, reverts to her Mother; in Default of her Mother, to her Father; in Default of him, to her Husband; if the Husband be not alive, then, by whichever of the Eight Forms of Matrimony the Woman was married, her Property shall go to her Husband's Younger Brother or Brothers, entire or equally divided; in Default of these, to the Son or Sons of the Husband's Younger Brother or Brothers, and Elder Brother or Brothers, entire or equally divided, as there is One only or many of them; in Default of all these, it shall go to her Sister's Son or Sons, entire or in equal Portions; if there are none of these, it shall go entire or equally shared to her Husband's Sister's Son or Sons; in Default of these, to her Brother's Son or Sons, altogether or by equal Portions; if there are none of these, Inheritance belongs to her Son-in-Law; if there be but One, he shall have the whole; if several, all shall receive equal Shares; if there are none of these, it goes to her Husband's Father; in Default of him, to her Husband's Elder Brother or Elder Brothers, entire or equally shared; if there are none of these, to her Husband's Brother's Grandson or Grandsons, entire or in equal Shares; in Default of these, to her Husband's Grandfather; if he is extinct, to her Husband's Paternal Uncle or Paternal Uncles, entire or in equal Shares; in Default of these, to her Husband's Paternal Uncle's Son or Sons, entire or equally divided; if these are extinct, to her Husband's Paternal Uncle's Grandson or Grandsons, entire or in equal Shares; in Default of these, it shall belong to her Husband's Grandfather's Father; if he is extinct, to her Husband's Grandfather's Brother or Brothers, entire or in equal Shares; in Default of these, it descends to her Husband's Grandfather's Brother's Son or Sons,

Sons, entire or equally divided; in Default also of these, to her Husband's Grandfather's Brother's Grandson or Grandsons, entire or in equal Divisions; if there are none of these, the Wife's Property shall descend to her Husband's Grandson's Grandson or Grandsons; entire, if there is but One; equally shared, if there are several; in Default of these, to her Husband's Grandson's Grandson's Son or Sons, entire or equally shared; if these are extinct, it goes to her Husband's Grandson's Grandson's Grandson or Grandsons; entire or in equal Portions; in Default of these, her Husband's Grandfather's Grandfather shall inherit; if he is extinct, it goes to her Husband's Grandfather's Father's Brother or Brothers; entire or equally shared; if these are extinct, to her Husband's Grandfather's Father's Brother's Son or Sons; entire or equally shared; if there are none of these alive, to her Husband's Grandfather's Father's Brother's Grandson or Grandsons; entire or equally shared; in Default of these, Inheritance belongs to her Husband's Grandfather's Grandfather's Father; or if he be dead, to her Husband's Grandfather's Grandfather's Brother or Brothers; entire or in equal Shares; if there are none of these, it goes to her Husband's Grandfather's Grandfather's Brother's Son or Sons; entire or in equal Shares; in Default of these, to her Husband's Grandfather's Grandfather's Brother's Grandson or Grandsons; entire or in equal Shares; in Default of these, to her Husband's Grandfather's Grandfather's Grandfather; if he is extinct, the Property goes to her Husband's Grandfather's Grandfather's Father's Brother or Brothers; entire or in equal Shares; in Default of these, to her Husband's Grandfather's Grandfather's Father's Brother's Son or Sons; entire or in equal Divisions; in Default of these, to her Husband's Grandfather's Grandfather's Father's Brother's Grandson or Grandsons; entire or in equal Shares; in Default of these, whoever of her Husband's Family is the next near Relation shall inherit her Property; if there be no near Relation, One of distant Affinity shall receive it; in Default of these also, the Property of the Wife of a Chheteree, a Bice, or a Sooder, shall be inherited by the Magistrate; the Property of the Wife of a Brahmin, in that Case, shall be inherited by the learned Brahmins of the Village where

the deceased Woman used to reside; if there are no learned Brahmins there, the unlearned Brahmins shall be Heirs; if these also are wanting, the Brahmins of the Environs shall receive the Inheritance: But the Magistrate shall in no case touch the Property of a Brahmin's Wife.

Inheritance of an unmarried Daughter.

WHEN an unmarried Girl dies, her Property shall go to her Brother by the same Parents; if there be but One, he shall have the whole; if several, all shall have equal Shares; in Default of these, to her Mother; if her Mother is dead, to her Father; if he also is dead, to her Brother by a different Mother; in Default of him, to the Son of her Brother by Blood; in Default of him, to the Son of her Half-Brother; if these are extinct, to her Brother's Grandson or Grandsons; in Default of these, to her Grandfather; if he is dead, to her Paternal Uncle or Uncles, entire or in equal Shares; in Default of these, it goes to her Paternal Uncle's Son, or Sons, entire or in equal Shares; if there is no Paternal Uncle's Son, to the Paternal Uncle's Grandson or Grandsons, entire or in equal Shares; in Default of these, it goes to her Grandfather's Father; if he is dead, to her Grandfather's Brother or Brothers, entire or in equal Shares; if these are extinct, it goes to her Grandfather's Brother's Son or Sons, entire or in equal Shares; in Default of these, to her Grandfather's Brother's Grandson or Grandsons, entire or in equal Shares; in Default of these, it goes to her Grandfather's Grandfather; in Default of him, to her Grandfather's Father's Brother or Brothers, entire or in equal Shares; in Default of these, to her Grandfather's Father's Brother's Son or Sons, entire or in equal Shares; in Default of these, to her Grandfather's Father's Brother's Grandson or Grandsons, entire or in equal Shares; if her Grandfather's Father's Brother has no Grandson, her Property shall go to her Grandfather's Grandfather's Father; in Default of him, to her Grandfather's Grandfather's Brother; if there is but One Brother, he takes the whole; if there are several, they

they all shall have equal Shares; in Default of these, it shall go to her Grandfather's Grandfather's Brother's Son or Sons, entire or in equal Shares; if there are none of these, it shall go to her Grandfather's Grandfather's Brother's Grandson or Grandsons, entire or by equal Portions; in Default of these, to her Grandfather's Grandfather's Grandfather; in Default of him, to her Grandfather's Grandfather's Father's Brother; if there is but One Brother, he shall have the whole; if several, all shall have equal Shares; in Default of these, it shall go to her Grandfather's Grandfather's Father's Brother's Son or Sons, entire or in equal Shares; in Default of these, to her Grandfather's Grandfather's Father's Brother's Grandson or Grandsons, entire or in equal Shares; in Default of these, then whoever is a near Relation, in the Family of the Father of the Girl so circumstanced, shall become her Heir; if there is no near Relation, a distant Relation shall inherit; in Default of these also, the Magistrate shall inherit the Property of the unmarried Daughter of a Chehteree, a Bice, and a Sooder; and if such unmarried Girl be Daughter of a Brahmin, the learned Brahmins of the Village where she resided shall inherit her Property; if there are no learned Brahmins in that Village, the unlearned Brahmins of the same Village shall become her Heirs; if also there are no unlearned Brahmins in that Village, the Brahmins of the Environs of that Village shall succeed to the Inheritance: The Magistrate shall never inherit the Property of the unmarried Daughter of a Brahmin.

Is, during the Lifetime of a Girl deceased, any Person had agreed to marry her, and that Person, or his Mother or Father, had given any Thing to the Girl, the Present so given shall revert to the Donor: If it had been agreed to marry a Girl to One Person, and she is afterwards married to another, then whatever Presents the First Person, or his Mother and Father, had made to the Girl, upon Account of the Marriage, and whatever Presents any other Member of the same Person's Family had given to the Girl, upon the same Account, either in Money, or Goods, such Money and Goods shall be returned the Person so disappointed.

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S E C T. V.

Of Persons incapable of Inheritance.

WHOEVER is born an Eunuch; whoever is driven from the Society of his own Tribe, his Relations and Kindred, for the Commission of any Crime; whoever is born without Sight, or without Hearing; whoever is an Idiot, or knows not the Distinction of Good and Evil; whoever has no Principle of Rectitude; whoever is born and continues Dumb; whoever is born without Hand, or Foot, or Nose, or Tongue, or Urinary Passage, or Anus; whoever beats or strikes his Father, and, after his Father's Death, performs not the Sevadeh (or religious Offices to the Father's Memory) and the Man, whom his Relations and Companions refuse to eat or drink with, on Account of his general ill Behaviour; and he who lives in constant Commission of those Actions which are forbidden to his Cast by the Bede; whoever is so perpetually afflicted with some Disorder that no Remedies can make him better, and who, on Account of this Disorder, is never able to perform the Sevadeh, the Poojeh, and other religious Duties of this Kind; whoever is afflicted with a White Leprosy, or with a Leprosy attended with Boils, and with a Leprosy from which Blood and Matter perpetually discharge; Men afflicted with those Disorders, even after a Perashchur or Recovery, are incapable; and whoever to gain a Livelihood fraudulently puts on the Appearance of a Berhemcharry, or a Sinassee; whoever is afflicted with a Gânsee Jikha, or Consumption, attended with a Discharge of Phlegm and Blood; whoever has become a Sinassee; whoever gets his Living by an unwarrantable Trade; all these that have been specified are incapable of Inheritance; but whoever shall supersede these, in the Inheritance of Property, must find them in Food and Cloaths; but the Man who has been renounced by his own Cast shall not even receive this Pittance: If any of these People have Sons
totally

totally free from all the Objections above-mentioned, these Children shall receive their Father's Share of Inheritance; but the Son of a Man deprived of his Cast, if born after such Deprivation, shall receive nothing; if these People have any unmarried Daughters, such Daughters shall receive Victuals and Cloaths, until their Marriage; also the Wives of such Men, if they are not of bad Behaviour, shall receive Cloaths and Victuals.

S E C T. VI.

Of Possessions liable to Division.

Of the Property of a Grandfather and Father; and of such Property as is gained upon Partnership Concern, and of what is given to One Relation by another of equal Affinity, indiscriminately, that is to say, without specifying the Name of any particular Person; as also of what springs from Joint Labour, or the United Efforts of Three or Four People; all such Property is liable to Division.

WHEN Two or more People are Joint Heirs, and any Thing is gained upon the Stock, then the Person or Persons, by whose Labour and prudent Schemes such Profit was gained, shall receive each a double Share, according to the Ordination of Sirru Kishen, the Terkalunger, and Gopaul Panchaanum.

WHEN Two or more People are Sharers in a Common Stock, and One or Two of those raise a Profit upon this Stock, then all the Partners shall receive a Division of it, according to their Proportion of Stock; but he who gained the Profit shall divide the whole of it into equal Shares, and take first One compleat Share to himself; and then the rest shall be divided among them all, in Proportion to their Share of the Stock: This Ordination is according to Sewanerteh, the Behtáchárigé, and Jeimoot Báhun, and is approved.

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IN a Partnership where the Property belongs all to One Man, and the other has all the Labour of the Business, and raises a Profit upon such Property, that Profit shall be divided equally between them.

IN a Partnership where One Man both advances his Property and also takes his Share of the Trouble of Business, and another only takes a Share in the Labour, without advancing any Thing to the Stock, then the Man, who both risked his Property and exerted his Efforts, shall have a double Share of the Profit that may arise; the Man who only contributed his Labour shall have a single Share.

IF a Man, without any Advance of Property, makes any Profit by his own mere Diligence and Efforts, his Partners shall have no Share in it.

S E C T. VII.

Of the Division of Things acquired by Study.

OF dividing the Profits gained upon the Science of the Shafter, upon the Art of Painting, Architecture, and any such Kind of Arts, upon which a Profit is gained.

If a Man, without employing the Joint Stock of a Partnership, by his Labour and the Exertion of any Art, gains any Thing, then, whoever of his Partners by Affinity is more skilful than himself, and also, whoever of them possesses equal Talents with himself, shall each have a single Share of such Profit; and the Gainer himself shall have a double Share; and whoever of them has less Skill than himself, or is without a Knowledge of any Art, shall not have any Share.

If any Man has learnt any Art from his Father, Grandfather, his Paternal Uncle, his Brother, or in his own Family, of the Profit he may gain by such Art, a single Share shall go to each of the Family, who is without Knowledge of any Art, or has less Knowledge than himself; and whoever contributes any Thing by his own Labour, to the General Fund, shall receive a double Share.

If any Man has quitted his Partners by Affinity, for the Purpose of learning any Profession, and another of the Family, unskilled in any Art, expends Part of his Property, in supporting the immediate Dependants of the Absentee, then he who went to learn a Profession, if he makes any Advantage by the Profession, shall himself take a double Share of such Profit, and give

give a single Share to the Person who supported his Dependants in his Absence; but if those Dependants were supported from the Common Joint Stock, he shall give nothing.

If a Man learns a Profession from One not related to him, and also receives Food and Cloaths from such Person, during the Time of learning it, his Partners by Affinity shall not receive any Share of the Profits acquired by such Profession.

S E C T. VIII.

Of Dividing the Profits made by Children.

If a Man makes a Profit upon employing his Father's or Grandfather's Property, he shall give Half of such Profit to his Father; if he has no Brothers, he shall take the other Half to himself; if he has Brothers, he shall take a double Share of the remaining Half to himself, and give a single Half to each of his Brothers.

If a Man makes a Profit, without Employment of any Property, he shall give One Half thereof to his Father, and keep the Remainder himself: His Partners by Affinity shall in this Case receive nothing.

If a Man makes any Profit upon Employment of his Brother's Property, he shall give the Half thereof to his Father, if that Father be a Man of any Science or Skill; and of the remaining Half, he who made the Profit shall take a double Share, and he whose Property was employed shall have a single Share; and those who risked no Property shall receive nothing: If the Father be not a Man of Science or Skill, he shall only receive a double Share of the whole; the Man also who made the Profit shall in this Case take a double Share of the whole; and the Man whose Property was engaged shall receive a single Share of the whole.

ESTATE T. IX.

Of Things indivisible.

I.

If a Man has gained any Prize by a Victory in War, it shall not be shared by any others.

II.

If a Man has gotten any Thing in the House of his Wife's Father, no Share of it shall appertain to his Relations.

III.

If a Man has received any Thing as a Compliment from his Father and Mother, no Share of it shall appertain to his Relations.

IV.

If a Man has gained any Thing, without employing the Common Joint Stock, and without any of his Relations taking an equal Share of the Labour, and exclusive of what is given him by a Relation of equal Affinity, no Share of such Profit shall appertain to his Relations.

V. If

III
V.

If a Father, at his own Free-Will and Choice, gives up Land, Houses, Orchards, or the Profits of his own Labour, to One of his Sons, the other Sons have no Right to a Share in it.

VI.

THE Water of a Pool, or of a Well, shall be taken by any One, according to his Wants: There is no Account of much or little in sharing this Article.

VII.

EXCLUSIVE of Land, if any other Property of a Father, or Grandfather, be not particularly appropriated to any One, and any One of the Partners by Affinity, without employing the Joint Stock, and also without any of the Labour or Efforts of any of the other Partners, by Permission of the other Partners, appropriates such Property, it shall not be divided into Shares; in the same Manner, if by Consent of the Partners, One of them appropriates to himself any Land of his Father and Grandfather, he shall divide the Three remaining Shares equally between his Partners and himself.

VIII. IN

VIII.

IN a Partnership of Relations, the Wearing-Apparel of each Partner, all the Necessaries of travelling, the Ornaments worn about his Person, the Vessels for Meat and Drink, that are in immediate Use; the Slave Girl, whom he has originally and particularly separated as his own Concubine, exclusive of the other Girls; also, the necessary Furniture for Sitting or Sleeping, that is in constant Employ; and all such Kinds of Things; if One Man expends less, and another more, yet shall there be no Shares made in such Property; and if, of such Kinds of Things, there is only enough in the House for each Person to have One, all shall have equal Shares.

IX.

THE Place of Poojeh, or Worship, and the Place of performing the Juk (which has already been explained in the Section of a Woman's Property) shall not be divided into Shares: As also the Tagoor, or Idol of Adoration, shall not be separated into Shares.

X.

THERE shall be no Division made of the Space of Ground where the House-Drain runs, the Path which is left for the Kine, and the Path of the Great House-Gate.

XI. WHATEVER

X. C. T. XI. S. E. 3

WHATEVER is immediately necessary to a Man shall not be shared: As for Instance, when Three or Four People are Partners, and One of them goes to Service, a Second becomes a Pundit, and the Third perhaps a Painter; or in this Manner, they shall all exercise different Professions; in that Case, each of them shall take whatever there may be in the House appropriated to his own Calling; if there is only One Thing, all shall have equal Shares in it; but if that Thing be any Instrument belonging to the particular Trade exercised by any One of them, that Person shall take it, and give his Partners their Share of its Value.

XII.

If in the Lifetime of a Father all his Sons, at their Father's Command, or even without his Prohibition, upon their Father's Land make Houses and Orchards, though One takes much and another little, yet no Share shall be given of such Things; but if among these some have made Orchards and Houses, and some have not made them, then the whole shall be divided into equal Shares.

XIII.

F F T. S. E. C. T.

S E C T. X.

Of a Father's dividing the Property acquired by his own Labour and Efforts among his Sons.

I. If a Father divides the Property gained by himself among his Children, he shall divide it in the Manner most agreeable to himself; if he should not choose to divide it, his Sons shall not have Power to insist upon and oblige him to such Division.

II.

If a Father, at his own Pleasure, divides a small Part of the Property acquired by himself among his Children, and keeps a large Share to himself, he is permitted; also if he spends the whole of what he has thus reserved; and requires Food and Cloaths from his Sons, he shall receive it.

III.

If a Father divides the Property acquired by himself among his Sons, he shall divide it by equal Shares; but if any One of the Sons has been particularly dutiful to the Father, or has a larger Family than the others, or is incapable

[pable of getting his own Living, upon these Three Accounts, a larger Share may be given to such Sons than to the rest.

IV.

[If a Father, instigated by Anger, or by a particular Fondness for the Mother of any One of his Sons, or by any violent Sickness of his own, divides the Property acquired by himself among his Sons unequally, it shall not stand good.

V.

[If all the Sons go at once in a Body to their Father, and jointly desire their respective Shares of his Fortune, in that Case, even of the Property acquired by himself, the Father shall give an equal Share to the Son who is incapable to get his own Living, to the Son who has a larger Family than the rest, to the Son who has been particularly dutiful to him, and to the Son who does not come under any of these Three Circumstances: He shall not have Power in this Case to give any One more or less than the rest.

VI.

[If a Man has appropriated to Use any unappropriated Lands belonging to his Father, he shall not have Power to divide it among his Sons by unequal Shares, as in the Case of Property of his own Acquisition.

S E C T. XI.

Of a Father's dividing the Property of his Father and Grandfather among his Children.

I.

IF a Father is desirous of dividing among his Children the Property of his Father and Grandfather, if he altogether despairs of having a Son by any One of his Wives, he may divide it, at that Time, according to his own Pleasure; if there is Hope of a Child from any One of his Wives, he may not divide it.

II.

IF it be not agreeable to their Father a Man's Sons cannot forcibly take from him their respective Shares of their Grandfather's Property; even if there is no Hope that their Father shall ever have another Son, yet shall they not have Power to divide such Property.

III.

IF a Father, at his own Pleasure, divides his Father's and Grandfather's Property among his Sons, he shall take to himself a double Share, and give a single Share to each of his Sons.

IV. IF

IV.

If a Man divides among his Sons the Glebe, Orchards, Houses, Rents, Slave Girls, and Slaves of his Father and Ancestors, he shall give such Property to the Son with a large Family, the Son incapable of getting his own Living, the Son who has behaved particularly dutiful to him; and also to his other Son, in equal Shares; he shall not divide it unequally; and such Property he shall not sell or give away, without Permission of his Sons.

V.

A MAN shall not give away or otherwise dispose of his own Property and Land, as also of that of his Father and Ancestors, in such a Manner as that his immediate Dependants should be distressed for Want of Food and Cloaths; if, reserving so much as may be necessary for the immediate Subsistence and Cloathing of his Dependants, he sells or gives away the Remainder, he is at Liberty so to sell or give away.

VI.

If a Man divides among his Sons all the Property of his Father and Ancestors, exclusive of Land, Rents, Slave Girls, and Slaves, he may divide it in the same Manner as Property of his own Acquisition, by giving a larger Share to the Son who has a larger Family than the rest, to the Son who is incapable of getting his own Living, and to the most dutiful of his Sons; but if all his Sons at once in a Body demand a Division, the Property then shall be divided equally among them.

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VII. If

VII.

IF a Father, at the Time of dividing the Property acquired by himself, and the Property of his Father and Ancestors, among his Children, separates the whole into Twenty equal Shares, and gives One such Share to his Eldest Son, he may do it; and he shall then divide the Nineteen remaining Shares equally among his Eldest Son and the rest of his Sons.

VIII.

IF a Man of the Sooder Cast gives an equal Share of his Property to the Son born of a Wife, and the Son born of a Concubine he has the Power to do it; but if the Father dies without having made such Division, then whatever Share the Son born of a Wife shall receive, the Son born of a Concubine, shall receive Half as much; if there be no Son born of the Wife, or Son's Son, or Son's Son's Son, or Wife, or Daughters, or Daughter's Son, then the Son born of the Concubine shall inherit the whole Property; if there is a Daughter's Son, they shall have equal Shares.

IX.

WHENEVER a Person gives his Son's Shares of Property, equal with his own Share, to his Wife, who has neither Son, nor Son's Son, nor Son's Son's Son, and to whom nothing has been given of those Things which constitute a Woman's Property, he shall give One Share, according to the Computation of the Share of One Son; if the Wife has received any Thing constituting a Woman's

Woman's Property, he shall give her according to the Computation of Half the Share of One Son; but if he gives a small Share to his Sons, and retains a larger to himself, then he shall give to a Wife circumstanced as above-mentioned One Share, according to the Computation of the Share of a Son, from the Part appropriated to himself.

X.

If a Father, living separate from his Sons, has divided his Property among them, according to the Ordination of the Shafter, and he also taking this allotted Share, according to the Shafter, returns no more to live with his Sons, and afterwards he should have another Son by the same Mother, this Son shall have his Father's Share, and also whatever Acquisition of Property his Father may have made after such Separation; if more than One Son should be born after such Separation, all so born shall have equal Shares; and these Sons also shall pay whatever Debts their Father may have contracted after such Separation; and the Sons who were born before the Separation shall not share in this latter Property, neither shall they pay their Father's Debts; and the Sons also which shall be born of them after such Separation shall not have any Share: This Ordination concerns only the Property of the Father's immediate Acquisition.

XI.

If a Father divides the Property of his Father and Grandfather among his Sons, according to the Shafter, as for Instance, he takes a double Share to himself, and gives a single Share to each of his Sons; and if after that he should have another Son born, then the Son so born shall receive from the other Sons his respective Share of the Property that had been so divided, and shall also receive,

receive, after his Father's Death, his equal Proportion of the Property that was reserved to his Father upon Division.

XII.

WHERE a Father goes to live absent from his Sons, and divides his Property among them, and also takes to himself his own Share, if at that Time the Mother of those Sons be big with Child, and this Son be born after such Separation of Father and Sons, yet he shall receive from his Brothers an equal Share of the Property that was so divided; and all the Sons shall have equal Shares of whatever the Father possesses; and if he contracts Debts, all the Sons shall pay them.

S E C T. XII.

Of Sons Dividing the Property left by their Father.

If a Man, having a Wife, and Sons born of that Wife, dies, or renounces the World, or gives up his Property, or is expelled from his Cast and Relations, it is not a good and proper Custom, that the Sons should divide and assume their Shares of the Father's Property, so long as that Wife lives; if that Wife orders a Division, the Sons may then divide it; at the Time of Division, if the Wife chooses it, she may take One Share, according to the Computation of the Share of One Son; if she does not wish to have a Share, she shall receive Food and Cloaths.

II.

If a Man has given to his Wife, or if that Man's Father has given to the Wife, ought that constitutes a Woman's Property, then the Sons of that Man, at the Time of the Division of Property left by him, shall give to the Mother according to the Estimate of an Half-Share of a Son, and shall not give any Part to any other Wife of that Man who has neither Son, nor Son's Son, nor Son's Son's Son; but they shall give her Food and Cloaths: This Ordination is according to Sewanerteh, the Behtáchárigé, and Sirru Kishen, the Terkalunger, and Jeimoot Báhun; and is approved: The Man's Wife who has neither Son, nor

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Son's

Son's Son, nor Son's Son's Son, shall receive the entire Share of One Son; according to the Ordination of the Pundits of Meethul.

III.

If all the Sons of One Man live together by general Consent, then the Elder Brother, becoming Master of the Family, shall like a Father give Support and Assistance in the Education of his Younger Brothers; and the Younger Brothers also, looking upon their Elder as their natural Master and Patron, like a Father, shall be obedient to his Will.

IV.

If the Elder Brother is incapable of managing his Affairs, then he among the Brothers who is capable of the Management shall take the whole Burden upon himself, and govern the Family.

V.

To live together is the Result of the general Consent of all the Partners; but Separation takes place from the Inclination of any One of them; if the Partners thus separate by Inclination of One, and divide the joint Property, the Share of such Person as may be Abroad, and the Share of him who is too young to manage for himself, shall be kept and reserved for them, in some safe Place, that it may not be lost or diminished.

VI. If

VI.

If all the Brothers, by their own Free-Will and Accord, selecting the Twentieth Part of Property, as above-mentioned, before the general Division, present it to their Elder Brother, and then divide the remaining Nineteen Parts equally to the Elder and to the Younger Brothers, it may be done; if it is without the Free-Will and Consent of all the Brothers, and that if the Elder Brother, at this Time, makes Request for the Twentieth Part, he shall not have Power to take it.

VII.

If any Member of a Society of Relations, by his own Free-Will, renounces his Share, and gives it up to the other Partners, then the Partners, for the Sake of settling all Disputes, and that none of his Heirs may come hereafter to make any Demand, shall give something to the Person so quitting, and take from him an Acknowledgment.

VIII.

At the Time that the Partners by Relations divide and take up their respective Shares of Property bequeathed them, they must discharge the Debts of the Man whose Estate they inherit; if they cannot pay the Debts, they shall pacify the Creditors for the present, share the Property, and give a Promise, hereafter to discharge the Debts; and shall accordingly pay, at what Time they are able; and if the Bequeather, intended to give any Person any Thing, they also shall give the Present so intended, upon sharing the Property bequeathed.

IX. If

IX.

If One among the Partners has a very numerous Family, and the others small Families, then those who have the small Families, at the Time of sharing Property bequeathed to them, shall not have the Liberty to speak to the Man of the numerous Family, on Account of the large Quantity of Victuals and Cloaths expended, during the Time of their living together, but shall share equally the whole of what is before them.

X.

If a Brother, or an unmarried Sister, either has not performed the Ceremony of having the Ears bored, or of taking up the Brahminical Thread, or of first tasting Salt, and the other Partners have all performed these Ceremonies, then the Partners, at the Time of dividing any Property, exclusive of the general Shares, shall give, over and above what is necessary for the Expence of these Ceremonies, according to their own Abilities, and then divide the rest of the Property into equal Shares; if the whole Property is not sufficient for the Expence of these Ceremonies, the Partners before-mentioned shall labour at some Vocation, to procure a Sufficiency for them to answer this Purpose,

XI.

If a Man dies without a Son, and his Grandson makes a Division of the Property left by him, then the Wives of the Grandfather, if they take their Share of what is left, shall have an equal Share with the Grandson; if they do not take their respective Shares, the Grandson shall be obliged to find them in Victuals and Cloaths; if those Wives have received what is defined to be a Woman's Property, they shall receive a Share, at the Computation of Half the Share of the Grandson.

S E C T.

S E C T. XIII.

Of Dividing Joint Property of People, who, after Separation, come to live together.

I.

WHEN a Man, who has been separated, returns to live on Friendship, either with his Father, or Brother, or Paternal Uncle, and an Agreement is made between those Two, that, "My Property is yours, and your Property mine;" and also, when on both Sides they make this Agreement, with upright and sincere Intentions, this is called Sungferfutt. — Sungferfutt is when, after a Separation, a fresh Coalition takes place; and, exclusive of these Names that have been mentioned, if a Man goes to live with any other Person, this is not called Sungferfutt: This is according to the Ordinations of Jeimoot Báhun and Sewanerteh, the Behtáchárigé; and is approved; but the Pundits of Meethul say, that when a Person who has separated from any Relation whatsoever, and returns again to live with him, it is called Sungferfutt.

II.

IF Two, or more Brothers, who having first separated, and then returned again to live together, separate the Second Time, they shall divide their Joint Stock by equal Shares.

I i

III. IF

III.

If a Man, who, after having separated, returns again to live with his Partners, has made any Profit, by Dint of Science, or Diligence, or by Painting, or any other Art, from that Profit, he shall take a double Share to himself, and give a single Share to each of his Partners.

IV.

If a Father, having separated from his Son, returns afterwards to live with One or more of them, and if, after Separation, the Father gets another Son, then the Sons, who, after Separation returned again to live with the Father, and every Son who was born after such Separation, after the Death of the Father, shall take equal Share of all his Property, and shall also pay the Father's Debts, by equal Contributions; and the Sons, who returned not to live with the Father, have no Connexions with the Shares of his Property, or with the Payment of his Debts.

V.

If a Father, after having separated from his Children, should again live with One or more of them, and, after such Separation, another Son should be born, whatever Property the Father makes, after such Separation, without any Labour of his Sons, and without Employment of the Common Stock, that Property, after the Father's Death, shall be inherited by every Son who was born after the Separation, and the Sons, who, after Separation, returned to live with

with their Father, shall not receive any of it; if the Father, by Employment of the Common Stock, or by the Endeavours and Labour of the Son, makes any Profit, the Shares of all shall then be equal; and if the Father, for his Purposes, contracts any Debts, the Son, who was born after the Separation, shall pay them.

SECT.

S. E. C. T. XIV.

Of a Partner's receiving his Share of Joint Stock, after Intervention of a long Space of Time; and of the Sons of a Woman of the Sooder Cast, who has had Two Husbands; and of adopted Sons.

I.

If any Member of a Society of Relations (before the Society is broken up) goes away into another Kingdom, and there establishes his Habitation, so that he himself, after a very long Time, or his Sons, or his Grandson, or his Grandson's Son, or any One of his Descendants, comes to the Partners before-mentioned, or the Descendants of those Partners, and demands his Portion, and by Means of Men of Character, his Neighbours, or Relations, or any other, proves his Affinity to the Man, who, going into another Kingdom, there established his Habitation, he shall receive his Share of the Property.

II.

If a Woman of the Sooder Cast, having borne a Son to One Husband, goes to live with another Man of the same Cast, carrying her Son with her, and, while she remains in that Man's House, bears him also a Son, then each Son that is born to either Man, after the Death of that Man, shall inherit his Property;

Property; if the Mother of those Sons dies, then each Son shall separately inherit whatever was given to her, by his own Father; and if, exclusive of what the Father gave, the Mother had any other Property, all the Sons shall have equal Shares of it.

III.

A MAN, without Permission of his Partners by Affinity, shall not give away to any One, and shall not sell any of the Common Stock; if he sells a Part of it, by Computation of his own Share, or gives such Part away, it is approved; but if he gives that Property away, or sells it, or pawns it to a Man of fraudulent Principles, so that Loss and Vexations accrue to the Partners thereby, the Man who thus gives, sells, or pawns, is criminal; according to the Ordination of Sewanertch, the Behtacharige, and Jemoot Bahun, and Sirru Kishen, the Terkalunger, and is approved.

IV.

If a Man gives away, or sells, or pawns, without Leave of his Partners by Affinity, any Part of the Joint Stock, upon Computation of his own Share, it is not approved; according to the Ordination of the Pundits of Meethul.

V.

If a Man had before entertained an adopted Son, and afterwards a Son should be born of his own Seed, then, after the Death of the Father, the adopted Son shall have a single Share, and the natural Son a double Share of his Property.

S E C T. XV.

Of Dividing hidden Possessions; and rectifying unequal Divisions; and the Means of settling the disputed Shares of Partners.

I.

IF a Man, at the Time of dividing the Common Stock, concealed any Part of it from his Partners by Affinity, and this Circumstance should afterwards appear, that Part shall be divided equally among the other Partners, and the Man who concealed it; if any of the Partners is suspicious, he shall make him Pirrekeh, or satisfied; him who is not discontented, he shall not make Pirrekeh.

II.

IF, at the Time of Division, the Property was unequally divided among the Partners, by any Mistake, it is not approved; he who had received too great a Share, shall, when the Mistake is discovered, share what he had received too much equally among them all.

III.

At the Time of Division, if One of the Partners be a Child, and another of the Partners fraudulently takes a greater Share than that Child, afterwards, if this Circumstance is discovered, that Child shall receive from the other the Difference of his Share.

IV.

At the Times of Division, if all the Partners of their own Accord agree to take unequal Shares, some more, some less, if after that, they are desirous to have a fresh Settlement of the Shares, it shall not be allowed them.

V.

Every Kingdom has its own Customs, and every Town has its own Customs; if therefore an unequal Division of Property takes place in any Tribe, according to the Customs of that Tribe, it is approved: If a Mode of unequal Division has descended from the Customs of Ancestors, it is approved.

VI.

If One Member of a Partnership by Affinity should say, that the Property has been divided, and another should say, that it has not been divided, and upon such Dispute they refer their Claims to Arbitration, First, the Arbitrators shall enquire the Truth of the Matter, from Persons descended

descended from the same Grandfather with the Plaintiff and Defendant, who were separated from them before the Dispute; if the Matter is not settled by Enquiry from Persons descended from the same Grandfather, they shall enquire of the near Relations and Kindred of the Plaintiff and Defendant; if it is not settled by Enquiry from the near Relations and Kindred, they shall next call for the Accounts of the Division; if there is no Account of the Division, then the Arbitrator shall find out whether the Expence and Income of the Plaintiff and Defendant are separate, and whether their Agriculture and Trade are separate on both Sides; and if they are of the Brahmin Tribe, whether One presents the Dan, and the other accepts the Dan (the Dan is when they pronounce a certain Hindoo Incantation over any Thing, in the Wish of a happy Futurity, and then present it to some other Person) and whether of the Plaintiff and Defendant One deposits a Pledge, and the other accepts it, and whether, on both Sides, One is Witness for the other, or One is Security for the other; and whether they perform the Seradeh Amawas, (that is the Ceremonies of the last Night of the Lunar Month, which is called the Night of Darkness) and the Seradeh Nowan (that is every Year in the Month of Aughun, they mix together new Rice, and Milk, and Sugar, and Candy, and perform the Fateh Buzurgwar, or Ceremonies to the Memory of their Ancestors) and the Seradeh Aperpukt (Aperpukt is when, before the Ten Days of the Roze Desehreh (or pompous Worship and Burial of the Hindoo Deities) upon the Days of the Shubitareechee (or Night when the Moon shines only Part of the Night) which are Fifteen Days sometimes in the Month of Bhaudon, and sometimes in the Month of Assin, they perform the Tateh Buzurgwar) whether as before said the Plaintiff and Defendant perform these Kind of Seradehs apart from each other, then, although there is no Witness or Account of Division to prove the Certainty of this Affair, yet, by their performing the several Ceremonies above-mentioned, separate from each other, it is a Proof that a Division has before taken place.

SECT.

S E C T. XVI.

*Of Acquiring Property in the real and personal Possessions of
another Man, by Ususfruct.*

I.
A PERSON who is not a Child (Childhood lasts until the Person be Fifteen Years of Age) nor is impotent and incapable, nor diseased, nor an Idiot, nor so lame as to be unable to walk, nor blind, and who is able to go before a Magistrate, and distinguish his own Concerns, and who has not given Orders to another to make use of his Property, if before the Face of such a Person another Man, without Hindrance, applies to his own Use the Glebe Land, or Houses, or Orchards of that Person, for the Space of Twenty Years, the Property becomes vested in this Man from the Twenty-first Year, and the other Person has no Claim upon such Glebe, Orchards, or Houses; but if that Person has any of the Objections before-mentioned, his Claim shall stand good: This is according to the Ordination of Sirru Kerráchárigé, and Patook, and Jukeluke, and Rhebdeeb Beht, and Soolpanee, and Chandeesur, and Sewanerteh, the Behtáchárigé; and is approved.

A PERSON who is not a Child, nor impotent and incapable, nor diseased, nor so lame as to be unable to walk, nor blind, and who is able to go before a Magistrate, and distinguish his own Concerns, and who has not given Orders to another to use his Property, if before the Face of such a Person another Man applies to his own Use, without Hindrance, the Gold and Silver, the Jewels, the Cloaths, Silks, Pots, and Instruments of Iron, and other Goods, and Chattels of this Kind, belonging to his Person, exclusive of Glebe Lands, Orchards, and Houses, for the Space of Ten Years, from the Eleventh Year the Property becomes vested in the Man so using them, and the First Person has no Claim upon such Goods and Chattels; if the above-mentioned Person is liable to the Objections stated above, his Claim shall stand: This is according to the Ordination of Sirru Kerráchárigé, and Patook, and Jukeluke, and Behdeeb Beht, and Soolpanee, and Chandeesur, and Sewanertch, the Petahchárigé; and is approved.

III.

If a Man has applied to his own Use the Glebe Land, Houses, and Orchards of another, and this Person attempts any Hindrance, within Twenty Years, the Glebe Land, Houses, and Orchards above-mentioned, revert to that Person, but the Produce of them, which the other Man has expended, shall not be returned.

IV.

If a Man has applied to his own Use any of the other Goods and Chattels of another Person, exclusive of Glebe Land, Orchards, and Houses, and this Person lays claim to them, within the Space of Ten Years, they shall revert to that Person; but the Person who has used them, if he has made any Profit by them, shall not return it: If any of the original Property be spoiled or expended, the Person who took them unwarrantably shall make it good; and the Magistrate shall inflict upon him the same Punishment as upon a Robber.

V.

ANY Thing deposited as a Pledge, any Thing committed to another's Custody, under Hand and Seal, or any Thing entrusted to another by Howaleh (Howaleh is when a Person entrusts to another, in the way of Friendship, his Houses, Glebe Land, Orchards, Kine, Horses, Elephants, Camels, and these Kinds of useful Animals) as also his Pots, and Mats, and all his Estate, real and personal) if a Man has possessed any Thing delivered to him, on either of these Three Accounts, and made use of them for a very long Time, without Molestation, yet he shall restore them upon Demand of the Owner: Things possessed in this way, do not come under the Limitation of Twenty Years, or of Ten Years.

VI. SUPPOSE

VI.

Suppose a Man, after having applied to his own Use the Glebe Land, Orchards, and Houses of another, for the Space of Twenty Years, should die, and the Sons also of that Man, for the like Space of Twenty Years, having applied to Use the same Property, should thereafter die, and the Grandson also of that Man should apply to his Use the same Things, for the Space of Twenty Years, and then die, the Glebe Land, Orchards, and Houses above-mentioned, being in the Possession of the Son of that Grandson, in this Case, while his Property passed through the Hands of Three different People, for the Space of Sixty Years, if the rightful Owner of the Glebe Land, Orchards, and Houses, afore-said, from Ignorance or Inattention, has attempted no Hindrance or Molestation, in the Sixty-One Years, a Claim of the Descendants of the original Owner shall by means be allowed; the Glebe Land, Houses, and Orchards above-mentioned, shall belong to the Person who has applied them to Use.

VII.

If a Man has applied to Use the Glebe Land, Houses, and Orchards of another, for the Space of Sixty Years, through the Ignorance and Inattention of the rightful Owner, and then dies, or if he and his Sons together, having applied such Thing to Use, for the Space of Sixty Years, should then both be dead, and his Grandson enjoys the present Use of such Property, in this Case, if the rightful Owner, or Descendants of the rightful Owner, put in their Claim, or even cause Hindrance and Molestation, then such Houses, Glebe Land, and Orchards, shall revert to the Possession of the rightful Owner, and his Heirs; and he who has enjoyed the Use of them shall not have Possession.

VIII. If

VIII.

If a Man having applied to Use the Glebe Land, Orchards, and Houses of another, for more than Twenty Years, should die, and his Grandson also should be dead, after having applied to his Use the same Property, for Twenty Years, in this Case, although the Property has passed through the Hands of Three different People, for the Space of Sixty Years, yet the Son of his Grandson shall not become Possessor of such Property, but it shall revert to the original Owner.

IX.

If Two People possess different Writings to attest their Property in the same Thing, as a Bill of Sale, a Mortgage, or a Deed of Gift, or any such Kind of attested Writings, as perhaps One has a Bill of Sale, or a Deed of Gift, and the other a Mortgage, and the same Date is upon the Deeds of both Claimants, or that by any Accident the Date is obliterated, so that it cannot be ascertained which of the Instruments is prior to the other, then such Property shall belong to that Person who, before the Face of the Man possessing the other Deed, has appropriated it, and applied it to Use, without Hindrance and Molestation; he who has neither had Possession nor Use of it, nor has made any Hindrance to the other, shall not have it; if it has not been applied to Use by either of them, it shall be divided between them, in equal Shares: This is according to the Ordination of Pachesh Puttu Misser; and is approved. Helaywood delivers the Law in this Manner, viz. That he who possesses a Mortgage shall have a small Share, and he who possesses a Bill of Sale, or Deed of Gift, shall receive a larger Portion.

Mm.

X. If.

X.

If the Path of Entrance and Exit to and from a House, or the Space of Ground occupied by the House-Drain of One Man, be in the Territories of another, that Person, who has always had free Liberty to go and return, shall continue to have it; and the Owner, notwithstanding he has a Right to the Ground, and an attested Sunnud thereof, shall not give the other any Molestation.

XI.

If Two People having a Dispute, refer it to Arbitration, the Arbitrators, at the Time of Examination, shall give more Credit to Witnesses than to plausible Arguments; and if there be any Written Instrument, they shall prefer the Writing to the Witnesses.

XII.

SUPPOSE Two People dispute about the Right of Property in certain Glebe Lands, Houses, or Orchards, One produces a Deed to prove his Right, and the other (after that the Possession of the Property has gone through the Hands of Three different People, who are dead, for the Space of Sixty Years) is Fourth Possessor of such Property, in that Case, the Possession of Three People, for Sixty Years, is of more Validity than the Writing, and the Right of the Glebe Lands, Orchards, and Houses aforesaid, shall be vested in the Possessor; and the Claim of the Man who produces the Deed shall not be heard.



